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PROGRESS REPORT ON PUBLIC TRANSPORTATION UNDER MAP–21

HEARING

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

ON

EXAMINING HOW THE PROGRAMMATIC REFORMS AND NEW AUTHORITY PROVIDED TO FTA IN THE PUBLIC TRANSPORTATION TITLE OF THE MOVING AHEAD FOR PROGRESS IN MAP–21 HAVE BEEN IMPLEMENTED SINCE 2012 AND OTHER ISSUES CONCERNING PUBLIC TRANSPORTATION

JANUARY 16, 2014

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PROGRESS REPORT ON PUBLIC TRANSPORTATION UNDER MAP–21

THURSDAY, JANUARY 16, 2014

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 10:05 a.m., in room SD–538, Dirksen Senate Office Building, Hon. Tim Johnson, Chairman of the Committee, presiding.

OPENING STATEMENT OF CHAIRMAN TIM JOHNSON

Chairman JOHNSON. This hearing will come to order.

Today, the Banking Committee seeks to review how public transportation and the Federal programs that assist our Nation's transit providers have advanced since the current surface transportation law, MAP–21, was enacted in 2012. This Committee worked well together on the transit provisions of MAP–21 and I look forward to continuing our Committee's bipartisan work on public transportation issues.

Reliable and accessible public transit is vital in rural areas like South Dakota, just as it is vital in large cities. Our transit systems connect workers with employers, keep cars off congested roads, and get people where they are going safely and affordably.

The public transportation title developed by the Banking Committee for MAP–21 made many important changes to Federal transit programs. To name just a few, MAP–21 provided authority to the Federal Transit Administration to institute a much needed national framework for safety oversight; it created the Transit Emergency Relief Program that is helping New York and New Jersey transit agencies recover from Superstorm Sandy; and in Indian Country, MAP–21 provided new formula funds to 83 Tribes across the Nation to help them deliver safe and reliable transit services to one of the most underserved segments of the U.S. population.

Our focus today will be on the implementation of MAP–21, but we cannot overlook the state of the Highway Trust Fund. The Mass Transit Account is expected to reach the end of MAP–21 on September 30 with only a very small positive balance, and the Highway Account could face a shortfall by late December. Without Congressional action, both accounts will be unable to support current program funding levels after MAP–21 expires. Federal transportation investment this year and beyond depends on the stability of the Trust Fund. The Banking Committee will be working with the Environment and Public Works, Commerce, and Finance Committees in the coming months to advance legislation to succeed MAP–21, but we must first review progress under the current law.

Today, we will hear directly from FTA on how they have implemented MAP–21. I look forward to hearing details about FTA's strategies to improve safety and asset management practices while minimizing any new administrative costs for grantees, particularly small and rural transit providers. The Committee will also hear about how MAP–21's changes to project development and program structure are proceeding. Finally, the Committee will examine issues that GAO has profiled in its research, such as the need for coordination at the local level to ensure that the varied Federal programs that assist local transportation services are working together effectively.

Now, I turn to Senator Crapo for his opening statement.

STATEMENT OF SENATOR MIKE CRAPO

Senator CRAPO. Thank you, Mr. Chairman.

In July 2012, Congress passed and President Obama signed into law the Moving Ahead for Program in the 21st Century Act, known as MAP–21, which authorized transportation programs through September 30, 2014. Since the enactment of this legislation, the Federal Transit Administration, or FTA, has been working to implement its transit provisions. At this point, MAP–21 programs are authorized for only another 8½ months. Today, we will hear from witnesses on implementation of MAP–21's transit provisions.

Some of the provisions that are of interest to me: MAP–21 provided FTA with new authority in the area of transit safety. While public transportation is one of the most safe modes of transportation, I look forward to an update on what progress has been made to improve passenger safety. I also want to understand how FTA is approaching this issue.

In Idaho and other States, many transit providers operate in rural areas and with very small staff, often only one to two or three people. It is important that new rules be tailored in a way that is not unduly or disproportionately burdensome to smaller or rural systems, especially as rural transit has a good safety record.

Rural transit agencies in Idaho and elsewhere provide vitally important transportation services. For example, they facilitate transportation for the elderly and persons with disabilities to medical appointments and low-income individuals to jobs. If new regulations are burdensome, it will be harder for providers to deliver service.

MAP–21 also directed the FTA to establish a National Transit Asset Management System to aid in understanding and assessing the condition of public transportation systems. Public transportation simply cannot be captured with a one-size-fits-all approach. There are many different types of transit systems and a great deal of diversity with respect to the needs of each system in our Nation. I look forward to hearing how FTA intends to implement the asset management provisions.

I hope that the level of detail that transit providers will be required to provide to FTA will be practical and not excessive. For rural systems, reporting on the age and mileage of the vehicle could be enough. Understanding where the FTA is in implementing

MAP–21 will aid us when we begin to consider the reauthorization later this year.

I recognize that short-term extensions do not allow the kind of predictability and security that a longer-term authorization can. However, as Federal dollars are collected for transportation and have fallen below our expenditures, it is no secret that the most difficult issue to be considered during the next reauthorization is how to refinance our transportation needs going forward. This includes finding a meaningful fix to the serious current inadequacies of the Highway Trust Fund. MAP–21, a bill with just over 2 years of authorization, was financed using 10 years of pay forwards. We must be very careful with what we do with respect to financing this bill in the future.

Again, I thank our witnesses for being here and I look forward to their statements, and I thank you, Mr. Chairman, for your attention to this issue.

Chairman JOHNSON. Thank you, Senator Crapo.

Are there any other Members who would like to give a brief opening statement or submit a statement?

Senator REED. Mr. Chairman.

Chairman JOHNSON. Senator Reed.

Senator REED. Mr. Chairman, I would like to submit a statement for the record that echoes your questions and Senator Crapo's questions about the adequate funding of the Mass Transit Account and the Highway Trust Fund.

Thank you, Mr. Chairman.

Chairman JOHNSON. Anybody else?

[No response.]

Chairman JOHNSON. I would like to remind my colleagues that the record will be open for the next 7 days for additional statements and any other materials.

Now, I would like to introduce our witnesses: Peter Rogoff is the Administrator of the Federal Transit Administration. David Wise is Director of Physical Infrastructure Issues at the Government Accountability Office. I look forward to the testimony of both witnesses.

Mr. Rogoff, please proceed with your testimony.

STATEMENT OF PETER M. ROGOFF, ADMINISTRATOR, FEDERAL TRANSIT ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Mr. ROGOFF. Thank you, Chairman Johnson, Members of the Committee. Thank you for this opportunity to discuss the Federal Transit Administration's progress in implementing the new MAP–21 law.

Across the United States, transit ridership is on track to exceed 10 billion trips annually for the seventh year in a row and transit has shown marked growth in 9 of the last 11 quarters. This is a remarkable milestone. Now, more than ever, Americans in cities, suburbs, and rural communities are asking for more transit, not less. They are seeing the benefits of spending less money on gasoline and less time in traffic. And at the State and local level, citizens are continually voting to tax themselves to help finance new transit services in their communities.

The MAP–21 law championed by this Committee on a bipartisan basis is a game changer that puts the FTA on the road to delivering transit better and more efficiently in communities nationwide. It has been called a 2-year authorization bill that contains 7 years of policy changes, and I think that is about right. Not since the enactment of the ISTEA law in 1991 have there been such profound and substantive policy changes to our transit statutes.

It is also quite complex, involving, at a minimum, 27 new and updated rulemakings, 14 new and revised circulars, 13 separate reports to Congress. At the FTA, we have an active and engaged team and an aggressive timetable to implement the law, and while much work remains, we have made significant progress despite the impact of the 2013 Continuing Resolution, a 5-percent cut to our administrative budget as a result of sequester, and a furlough that kept more than 95 percent of FTA's employees from working for more than half a month.

Let me begin with safety. I thank this Committee for working in such a bipartisan way to provide FTA with the tools the administration requested to establish minimum common sense safety standards for public transportation. We are making good progress. We have reached out to State safety oversight agencies in 30 States, so they understand what is needed to enforce new safety guidelines consistently and free of any conflicts of interest.

And in October, we issued a very comprehensive Advanced Notice of Proposed Rulemaking on both safety and transit asset management. While we were not required by MAP–21 to combine these two rulemakings, we did so quite deliberately to send a clear signal to our stakeholders that keeping a transit system as safe as possible goes hand in hand with adequately managing and maintaining the system's physical assets. The transit industry faces an $86 billion backlog in system preservation needs, and we are under-investing in that need by $2.5 billion a year.

When it comes to our new safety authorities in MAP–21, we fully recognize that a one-size-fits-all approach will not work. Effective and affordable safety improvements for the New York City Subway System are going to be very different than those that will improve the safety of bus operations at Topeka Metro in Kansas. Our entire approach to our new safety regulatory authority is focusing on adding value and keeping a safe industry safe. We are rejecting approaches that add unnecessary costs and bureaucracy.

As it relates to our New Starts/Small Starts Program, since 2009, FTA has executed 26 multiyear construction grant agreements. One hundred percent of the completed projects on this list were on time and on budget; the rest are very much on track to do so.

Under MAP–21, we have continued to cut red tape and streamline the program. For example, just recently, we introduced a new software tool enabling some communities to reduce from 2 years to 2 weeks the time needed to develop ridership forecasts on planned projects. This new tool could save taxpayers in some communities as much as a million dollars.

Because of the constraint on time, we have obviously made huge progress on the Emergency Relief Program. This Committee authorized a new Emergency Relief Program, as requested in our budget, just in time for Hurricane Sandy, but since I have already testified to this Committee at length on Hurricane Sandy, I am going to save that part of my testimony for later.

Importantly, I do want to put out a word of warning consistent with what the Chairman said as it relates to the balances of the Mass Transit Account of the Highway Trust Fund. At the time MAP–21 was enacted, the cash balance of the Trust Fund was thought to be sufficient to last us through the end of this fiscal year. As I sit here today, I cannot be sure that this will be the case. We have very similar worries for our colleagues at the Federal Highway Administration, whose Trust Fund account is also rapidly approaching insolvency.

We are working with the Treasury Department to update program outlay and revenue assumptions, which will be reflected in the President's budget when it is submitted. Importantly, just yesterday, Secretary Foxx announced his plan to post on the DOT Web site the monthly updates that will show all of America how soon our Trust Funds will start bouncing checks to our highway departments and our transit agencies.

Mr. Chairman, I look forward to working with this Committee as we strive to make our vision of a better transit future under MAP–21 a reality and as we work to shore up our Trust Funds.

This concludes my testimony and I will be happy to answer any questions you have at a later time.

Chairman JOHNSON. Thank you.

Mr. Wise, you may proceed.

STATEMENT OF DAVID WISE, DIRECTOR, PHYSICAL INFRASTRUCTURE ISSUES, GOVERNMENT ACCOUNTABILITY OFFICE

Mr. WISE. Chairman Johnson, Ranking Member Crapo, and Members of the Committee, I am pleased to be here today to discuss GAO's recent work on transit issues.

Millions of passengers use transit services on a daily basis and many of the local transit agencies providing these services receive Federal funding. The Federal Government plays a key role in supporting public transportation, with MAP–21 having authorized over $10.5 billion in both fiscal year 2013 and 2014.

While MAP–21 did not address long-term funding concerns, it did address a number of other issues, including strengthening Federal authority to oversee transit safety, emphasizing restoring and replacing aging infrastructure, consolidating some programs and grants, and streamlining project development, evaluation, and delivery.

My statement today describes our recent work on three related transit issues, addressing long-term funding challenges, improving capital investment decision making in regards to maintenance and expansion of transit systems, and coordinating transit services among various Federal and State or local agencies.

Federal funds available for the FTA's transit programs come from two sources, the U.S. Treasury's General Fund and the Mass Transit Account of the Highway Trust Fund. Both these sources face challenges. Currently, Congressional budget discussions raise issues about the level of General Fund Federal spending. Another significant funding challenge is the declining revenue of the Highway Trust Fund. Revenues into the Fund have eroded over time, in part because Federal fuel tax rates have not increased since 1993, and in part because of improvements in vehicle fuel efficiency.

The CBO estimated in May 2013 that to maintain current spending levels plus inflation between 2015 and 2022, the Fund will require over $132 billion more than it is expected to take in over that period. About $35 billion of that amount would be in the Transit Account. To maintain current spending levels and cover revenue shortfalls, Congress has transferred more than $50 billion in general revenues to the Fund since fiscal year 2008. This approach may not be sustainable, given competing demands and the Federal Government's growing fiscal challenges. For this and other reasons, funding surface transportation remains on GAO's High-Risk List.

Some of our recent work describes how sound capital investment decisions can help transit agencies use Federal and other transit funds more efficiently. MAP–21's requirements to transit agencies to use asset management are consistent with our analyses. For example, our 2013 report recognized that many of the nearly 700 public transit agencies struggle to maintain their bus and rail assets in good repair. We reported that to help prioritize capital investments, transit agencies would benefit from estimating the effects of those investment decisions.

However, of the nine transit agencies we visited, only two measured the effects of capital investments on the condition of certain transit assets. Further, none of the agencies measured the effects on future ridership, in part because they lack the tools to determine those effects. Accordingly, we recommended that FTA conduct additional research to help transit agencies measure the effects of capital investments, including impact on future ridership.

To expand or improve public transportation, transit agencies may use the capital funding available through FTA's New and Small Starts Program. An example of this is bus rapid transit, whereby transit agencies can seek to improve service and encourage economic development at a cost relatively less than rail. We found that the median cost for the 30 BRT and 25 rail transit projects we examined from October 2005 to February 2012 were about $36 million and $576 million, respectively. While many factors may contribute to economic development, officials in Cleveland, Ohio, told us that an estimated $4 to $5 billion had been invested near the HealthLine BRT project, associated with major hospitals and universities in the corridor and about one-third the cost of a comparable rail project.

While essential in a constrained funding environment, effective transit coordination can be challenging. In our 2012 report on services for transportation disadvantaged populations, we found that 80 different programs and eight agencies fund a variety of transportation services related to education, employment, medical, and other human services. We concluded that improved Federal leadership and guidance for further collaboration efforts could improve the coordination of transportation services among State and local providers.

FTA has made some progress in enhancing coordination for this population. According to FTA officials, as a result of MAP–21, the agency has been updating program guidance and has issued draft program circulars for a number of relevant programs. In addition, FTA continues to support Federal programs that play an important role in helping those populations by providing funds to State and local grantees that, in turn, offer services either directly or through private or public transportation providers.

Chairman Johnson, Ranking Member Crapo, and Members of the Committee, this concludes my statement. I would be pleased to answer any questions at this time.

Chairman JOHNSON. Thank you all for your testimony.

As we begin questions, I will ask the Clerk to put 5 minutes on the clock for each Member.

Mr. Rogoff, last fall, FTA asked for extensive input from the public transportation industry on the new transit safety and asset management framework. The Committee has heard from many bus providers that requirements for safety and asset management should be closely tailored to their size and State DOTs should be allowed to assist rural bus systems with all reporting. How is FTA utilizing the feedback from providers to ensure that the new safety and asset management framework will not take resources away from delivering transit service?

Mr. ROGOFF. Thank you, Mr. Chairman. We share the concern on the risk, or the pitfall, if you will, of stumbling into a regime where we are adding a bunch of bureaucracy that just distracts operators from their core mission that we are calling on them to do, and that is move people. We have been careful and crafted a number of questions in our ANPRM to solicit that industry input and we are currently digesting hundreds of comments that we have gotten from all sectors of the industry. But we are keenly aware that we gain nothing by creating a big paper tiger that does not add value. If we do this right, the transit operators at the local level, large and especially small, will see the value that comes from these reporting requirements and reflecting on their safety profile.

It is worth remembering that in the initial transit safety legislation that the Obama administration submitted to this Committee, we had planned to focus on rail exclusively at the beginning. That is still our focus. The Committees went another way in terms of doing a broad-brush approach that captures both the rail industry as well as the bus-only operators, but we certainly plan to tailor that to the capabilities of those operators.

Importantly, a lot of our work in this area is going to be guided by our Safety Advisory Committee, which was a formal advisory committee set up by Secretary LaHood when we first transmitted our legislation to Congress. We are now going in the wake of MAP–21 to recruit more bus-only operators onto that committee to advise us as we go forward. We are not going to do this in some vacuum in Washington, DC. As someone who puts forward taxpayer dollars in large percentages, especially to the small and rural operators, we have absolutely no incentive to see those dollars distracted by a bureaucracy and not into service.

Chairman JOHNSON. Good. A question for David Wise and Peter Rogoff. GAO has reported on the difficulty in coordinating transportation for transportation disadvantaged individuals and providing duplicative services. Could you both offer thoughts on why coordination is such a problem, and what are the next steps for improving coordination between Federal programs, particularly with Medicaid, which is estimated to spend between $1 and $3 billion annually on nonemergency medical transportation. Mr. Wise, your thoughts first.

Mr. WISE. Thank you, Mr. Chairman, for that question. Yes, we definitely share the view that transit coordination is a significant challenge, and as we noted in our statement, we had two recommendations to the Federal Transit Administration in this area. One of them is that DOT and the Coordinating Council that was set up to try to coordinate the services that are spread among eight Federal agencies and 80 programs, address this recommendation by developing a strategic plan. This has happened and so we have been able to close that recommendation. We feel that FTA has made some good faith efforts and is making progress in this area.

It is a very difficult problem to deal with, especially in the rural States like South Dakota and Idaho because people are scattered over very large areas. We had some long discussions with both the Native American Tribes in Coeur D'Alene and in the Oglala Sioux Nation about how difficult it is to try to arrange these transit services because the agencies, as you mentioned in your opening statement, are very underresourced, have only a couple of people working in them, and the distances are vast. The weather conditions are harsh. The population is very impoverished. To see a medical specialist might mean a trip of 120 miles to Rapid City. So, there are some real challenges for transit, which makes the issue of coordination all the more important throughout the country.

Chairman JOHNSON. Mr. Rogoff.

Mr. ROGOFF. Mr. Chairman, what I would add to that, it is a problem. Coordination has been a problem that has been identified at the Federal level for some time and it is getting better. We certainly have room to improve.

We have been successful in boosting the number of Mobility Managers that bring all these people together and helps professionalize the effort at the local areas to ensure that we are getting the maximum value out of all of the taxpayer funded and, in fact, charitably funded vehicles that are available.

We still have the problem with stovepiped rules, agency by agency. Mr. Wise is correct. Medicaid is sort of the big dog in the room in terms of the dollars they put into it, but, obviously, they have very strict rules to ensure that the Medicaid transportation dollar only goes for the hospital or medical visit and cannot be used for a visit to shopping or to church, and we need to figure out a way to continue to improve on the levels of coordination.

You asked, why is this such a problem? Part of it is Federal stovepipes, which I think we are doing a good job of tearing away. Also, we need to recognize that there are local social service agencies, State Action Councils on Aging. We have many, multiple different players here, different dollars, different rules, and we just need to stay about the business, especially as the rural community becomes more elderly going forward, to do a better job at tearing away at the stovepipes.

Chairman JOHNSON. Senator Crapo.

Senator CRAPO. Thank you, Mr. Chairman. It is evident that you and I both come from very rural States because you just used up a couple of my questions.

[Laughter.]

Senator CRAPO. I will get into them in a little more detail, though.

Mr. Rogoff, one of the questions—I think it was in the Chairman's first question—dealt with the safety and asset management in the context of dealing with rural communities and small systems, and I appreciated your answer with regard to the fact that you are aware of the difficulties that could be placed on small systems in rural communities by a one-size-fits-all regulation intended to be focused on a large system. But I just want to be very clear. Am I understanding you to say that as you move forward for final rules, that there is the capacity for a distinction so that we will not face the fact that our small rural operations will have to face the same regulatory requirements in terms of scope that the larger operations will?

Mr. ROGOFF. You have my assurance on that, sir, and as I said, it would be foolish to do otherwise. You pointed out yourself, we have operators that run with very few people, relatively few vehicles, and are, as a result, extremely efficient in the services that they provide. We definitely are coming at this from a, "if it is not broken, do not fix it," approach. We do look at this from how are we going to add value, and we are going to be advised by those very small and medium-sized operators to ensure that we do it, which is why we started with an ANPRM, asking these questions, rather than take a first draft at regulatory requirements, because we really need to gather the data and get their take on where they think we can add value.

Senator CRAPO. All right. Thank you. And you also in your answers got into the issue of, basically, the decision making on what priorities will be implemented first. I think you stated that rail would be exclusively focused on at the outset, but that we were going to get into moving forward with the remainder of MAP–21 implementation. I guess my question is, how do you prioritize the remainder of the implementation requirements, how, and in what order are you proceeding?

Mr. ROGOFF. Sure. Well, let me be clear on what I was saying about safety. Because of the risk, and we want to take all of this—bring a risk-based approach to all of our work on safety, the Administration put forward a bill that focused principally on rail because that is where the greatest risk is, and while the legislation goes in a somewhat different direction involving safety plans from everybody, we will still be putting the majority of our focus on the risk in high-speed rail accidents and in right-of-way worker fatalities and things like that.

As it relates to prioritizing regulatory products writ large across all of MAP–21, we started first with the regulatory rules that would apply to the biggest sums of money and the largest number of passengers and what would be sort of, if you will, the most substantive policy changes. We did a lot of this through instructions on our apportionment notice and through guidance, because in order to put the 2013 money to work under the new rules, we did not really have time to go through a long regulatory process. But, things like our multibillion-dollar formula program for the entire country, we wanted to make sure that those went out under the new MAP–21 rules.

We have had dozens of webinars and consultations with the transit agencies so they know how to put this to work. Some of the new authorities that do not apply to either large chunks or money or a large number of operators have had to wait so that we can, if you will, capture as much of the thrust of MAP–21 in the earlier period as we can.

Senator CRAPO. Thank you.

And, Mr. Wise, in the discussion that you had with the Chairman—you did have a discussion with the Chairman on the coordination issues as we move forward, and GAO's report on coordination highlighted the fact that the total Federal spending on services for transportation disadvantaged populations remains unknown because Federal departments did not separately track spending for roughly two-thirds of the programs, as identified by GAO. Why is this the case, and why is there such a problem in tracking this spending?

Mr. WISE. Thank you, Senator, for the question. The problem really lies in that these agencies, transportation is not the major component of what they do. And so as a result, some of these costs are comingled with other programs and—their accounting systems are not set up in a way that you can extract these costs separately and understand what it is costing the agencies for transportation.

Just as an example, the Department of Health and Human Services Medicaid program will reimburse States that provide Medicaid beneficiaries with bus passes, among other transportation options, to access eligible medical services. But it is not clearly delineated within their accounting system, so we are not able to get a full handle on exactly how much is being spent for transportation, but it is significant. I think, as Mr. Rogoff pointed out in his testimony, as the population continues to age, these things will become more important in terms of their budgetary impact.

Senator CRAPO. Thank you.

Mr. Chairman, I do have some more questions, but I will submit them for the record.

Chairman JOHNSON. Thank you.

Senator Reed.

Senator REED. Well, thank you very much, Mr. Chairman.

First, Mr. Wise, let me commend you and your colleagues for your always thoughtful and careful analysis, and this is no exception today. Thank you.

And Peter Rogoff is someone that I have had the privilege of working with on the Appropriations Committee, and then as the Federal Transit Administrator, you have done a superb job, so much so that Secretary Foxx has named you as the Acting Under Secretary for Policy, I believe——

Mr. ROGOFF. Correct.

Senator REED. ——and I think he has made a very wise judgment and he is demonstrating his very effective leadership already, so commend the Secretary, also.

Just two basic questions. Mr. Rogoff, can you give us some ideas of what are the impacts, the practical impacts, if we do not move in a timely fashion to restore funding to the Mass Transit Account. What is going to happen, and when is it going to start happening?

Mr. ROGOFF. Well, we have always come at this—I should not say always, but in recent years, we have determined that roughly the appropriate balance that we need to maintain in the Transit Account of the Trust Fund is a billion dollars. On the Highway side, it is about $4 billion for the Highway Account. And both the Federal Highway Administration and the Federal Transit Administration have plans on file on how we would manage cash in the event of balances falling below that level.

Within the Federal Transit Administration, it involves sometimes reimbursing a lower percentage on the dollar. So, someone is ready for reimbursement for 100 percent of an expenditure already made and we may only be in a position to reimburse them for 90 or 80 percent. Another approach may involve, for those that can handle the float, holding bills until the time that we have cash in our coffers.

My concern, and I know the Secretary's concern, is not what will happen when we actually reach that point, but what happens in the months leading up to that point when it becomes quite clear that we are heading into a place where we will not be able to guarantee full reimbursement, and what does that mean for either the State highway commissioners or the transit agencies that need to make capital investment decisions right in the heart of the construction season, and what dampening effect will that have on keeping people at work, putting new people to work, and also making the improvements that our highway drivers and transit users need, which is why he is sounding the alarm as he is, making this information available on our Web site, and starting this dialog now rather than waiting for the spring and summer to have it.

Senator REED. I think that is very appropriate, and I think, in addition to what you laid out, there are probably secondary and tertiary effects. One, service interruptions as they try to cover the capital costs by cutting back on operations, effects on bond ratings in terms of their ability to go to the market and fund projects. In addition to the money you cannot provide, they might not be able to raise adequate resources. So, this has a really significant cascading effect. I think that should be noted.

Mr. ROGOFF. Unquestionably, Senator. And I think it is important to note, some people remember the days when our agency was called the Urban Mass Transit Administration and still somehow think of our program as an urban program. The reality is this. If we had an interruption on our availability to reimburse transit agencies, the larger transit agencies, the New Yorks, the Philadelphias, the Chicagos, the Miamis, San Francisco, certainly, it will be a hardship, but they have adequate funds from other sources to continue to maintain operations.

Look at the other side of the spectrum. Our medium-sized and rural operators, the Federal dollar is sometimes anywhere up to 60 to 80 percent of the enterprise, both on the capital side and the operating side. And if we are not able to reimburse them in a prompt fashion, that is where we are at risk of seeing services close their doors.

Senator REED. There is another, I think, reality we have to come to grips with, is that the essence of the Highway Trust Fund, the funding mechanism is the gasoline tax, as I understand it.

Mr. ROGOFF. Well, it has been, but it has covered less and less of the total bill over recent years.

Senator REED. And the good news, it is going to be less and less and less because at the Detroit Auto Show this week, every car is very efficient. Pick-up trucks are getting lots of mileage they did not before. But, we are going to have to look for alternative funding mechanisms, frankly. I think you would concur?

Mr. ROGOFF. Most recently, the President has spoken about the opportunities of corporate tax reform to look at a way to reinvest in our infrastructure, recognizing, in part, that the gas tax returns less and less for each gallon purchased, based on the observations you made, that we are using less and less gasoline, consistent with our goals to reduce our dependence on oil.

Senator REED. Just a final point. When this program was launched under President Eisenhower, it was a sort of win-win-win. Building highways, transit systems, was supported by industry because it helped sell automobiles. It was supported by the petroleum industry because it helped sell gas, et cetera. But, the President was wise enough to say, we are going to pay for it and we are going to be able to expand, and we cannot contemplate America without the road systems that began in the Eisenhower administration, the productivity, our lifestyle. And, we are at a point now where if we do not move quickly and thoughtfully, we could just begin to slowly, or not so slowly, unravel our productivity, our lifestyle, our ability to function.

Thank you very much, gentlemen.

Mr. ROGOFF. Thank you.

Chairman JOHNSON. Senator Johanns.

Senator JOHANNS. Thank you, Mr. Chairman, and I thank both of you for being here today.

I come from a rural State, too, so I have a couple questions relative to that, but I did want to follow up on where Senator Reed was headed. Mr. Rogoff, not asking you to state a policy position on a preferable way to finance this area in the future, but I would be curious to know, just in your mind, what options might be available for Congress to look at. And, again, I am not asking you to state a preferred course.

Mr. ROGOFF. Well, there is a wide universe of options, Senator. As I mentioned earlier, the one that the President has discussed most recently is the opportunity that corporate tax reform could present to deal with our infrastructure challenge.

I would direct you, also, to a lot of measures that have been taken in the States recently, whether it is Pennsylvania, Wyoming, Virginia, a variety of mixes of taxes, user fees, done on a bipartisan basis, in the case of Pennsylvania, done by a Republican State House, State Senate, and Governor, to restore their trust funds that includes a mix of fuel tax, taxing oil at the wholesale level, moving to excise taxes in lieu of per gallon taxes, doing a variety of measures that—as well as other unique revenue options that may be specific to that State.

There is a wide universe out there, but clearly, we need to do something and we need to do something soon, considering the deadlines we are facing.

Senator JOHANNS. And let me, if I might, focus on a couple of issues that would be more rural in nature. I have talked to transit people back in Nebraska. These would be systems that are somewhat rural, but having said that, they exist also in larger metropolitan areas in the State, and they have some questions about the safety requirements of MAP–21 and FTA.

Initial FTA language suggests that each subrecipient entity would be required to have a trained safety officer. According to people back home, there is also an indication that the State Department of Transportation would be required to employ State safety officers who would be responsible for Statewide safety oversight. Of course, there are costs to that. That drains money away from other areas. This is a significant issue and it seems like there is some degree of overlap and duplication there.

I am assuming there will not be additional funding, although if there is, I would appreciate you telling me that. But, what are your thoughts on these requirements, and I would like to hear your thoughts on any resources that might be available to folks back home to deal with this burden.

Mr. ROGOFF. Sure. A couple of thoughts, Senator. First, we have not leveled a hard and fast requirement on anyone to date. What we have done is we have put out for notice and comment by the public concepts through an ANPRM. We have just taken all of those responses back—I am sure we received many from rural areas—and we will be taking those to heart as we move forward with a regulatory regime. So, I do not want to leave the impression that there is any hard and fast new requirement.

Indeed, there are resources available for some of this, and that was one of the breakthroughs of the new safety regime passed by this Committee, that for at least the State safety organizations, there is some $22 million to be allocated for those. Those are principally in the rail area.

But even at the State DOTs, I have spoken to the State transportation commissioners a number of times about this. They have the opportunity to draw for administrative expenses a percentage of the formula dollars we send to the State. Many of them do not draw down the maximum percentage. In some ways, that is a good thing, because that puts more of that money into direct service at the local level. The flip side is that if there is not adequate State oversight of the dollars, then we have challenges in making sure that those dollars are spent according to law and regulation. We end up having to go in as a result of Inspector General reports and things like that.

So, I have actually encouraged a number of the States to take a look at whether they should draw, not lots, but additional administrative dollars to do a better job at the State DOT level. What many of them tell me is that they have a hiring freeze at the State level, and the way that hiring freeze is sometimes imposed at the State level is without regard to whether it is Federal dollars or

State dollars, which hampers their ability to grow their workforce even on someone else's dime.

Senator JOHANNS. OK. I will circle back around, and if there are additional questions or concerns, can we reach out to you to——

Mr. ROGOFF. Absolutely. And if it is helpful for us to have a conference call with your Nebraska operators, we would love to do it.

Senator JOHANNS. OK. Great.

Mr. ROGOFF. And let me just say parenthetically, sir, you are a rural State, but you are also now a rail car producing State.

Senator JOHANNS. Yes, we sure are.

Mr. ROGOFF. And we just went and celebrated the arrival of the new Washington Metro cars, the whole new generation, one of the largest rail car purchases in the United States history, all manufactured in Lincoln, Nebraska. It is a very good story.

Senator JOHANNS. We are very proud of that.

Mr. ROGOFF. Thank you.

Senator JOHANNS. Thank you.

Chairman JOHNSON. Senator Warren.

Senator WARREN. Thank you, Mr. Chairman.

I want to ask you about another part of MAP–21. As you know, it aims to bring transit assets, the equipment, facilities, and so on, into a good state of repair, and the law requires that the FTA create objective standards for measuring progress toward this goal, and once those standards are in place, the law requires the recipients of Federal funds to develop plans for executing on those standards.

Now, the FTA was supposed to issue objective standards by October 1 of 2013 and it has not done so yet, and the delay has put the Massachusetts Department of Transportation in a tight spot. It is working on an asset management plan, doing the responsible thing, but it is reluctant to do too much planning because it still does not know what the FTA's objective standards will be.

So, Mr. Rogoff, when will the FTA issue a final rule on asset management standards?

Mr. ROGOFF. As it relates to a final rule, I will get you a target date. It may well be here in my book, but let me just speak more broadly to your observation.

Transit asset management was a new and welcomed addition to MAP–21. As I said in my opening statement, we have been hampered somewhat on the resource front, trying to figure out what priorities to put the staff on most urgently. Transit asset management is a very high profile for us and we did just put out the ANPRM for them to comment on. So, just as I said on the safety front, we want to take industry comments so we do not come up with some kind of one-size-fits-all, very rigid approach. We started with an ANPRM to get the industry's input on this.

I will be honest, Senator. I am in fairly regular contact with Rich Davey at MassDOT and Dr. Beverly Scott, who was just in town yesterday, at the MBTA. We are working on many fronts to try to advance things there. They have not voiced that concern to me. Obviously, things—what we are most critically interested in there is, as you well know, Governor Patrick and the legislature have succeeded in now leveraging new dollars for transportation investment in the Commonwealth and we want to make sure that they put them to work on the most critical transit infrastructure needs on the T, of which there are many, the Red Line especially, but many others, and we will be working with them.

You know, Bev Scott is a real leader in this industry, having done turns in Rhode Island, at MARTA in Atlanta, in California, and we will be looking to her to help inform our approach on how transit asset management can work for big legacy systems like the T.

Senator WARREN. Well, I appreciate that, and I particularly appreciate your working on the safety standards on the Red Line. I only live a few blocks from the Red Line and we use it. So, I am grateful for that, but I really do want to emphasize, there is a deadline built in. It was supposed to have been October 1, which means all of the question about pulling in all of the outside. You have got to plan against a deadline, and so I just am hopeful that we get this done quickly. I know that you are committed to improving the equipment and making sure we meet the highest safety standards. I know that is also true for the MBTA. So, thank you, but I am really going to keep a thumb in your back on this one.

Mr. ROGOFF. And that is fine. I welcome it. I think, importantly—I want to be careful on how I phrase this—we have a number of statutory deadlines. I am not sure they were workable and reasonable when they were put in in the first place. We take them as very strong indications from the Committee on the priority they put against this. But I think, as you have also heard across the dais, they want us to get industry input before we start writing rules——

Senator WARREN. Fair enough.

Mr. ROGOFF. ——and we need to strike that balance.

Senator WARREN. Fair enough. Now, if I can, I want to ask you about one other thing, and that is, broadly speaking, Congress can distribute highway and transit money in two ways. It can distribute money through a formula, which spells out exactly how a particular State and local agency will receive money, or it can leave the distribution of the money at the discretion of the Department of Transportation and then provide grants to different State and local agencies based on a competitive process.

Historically in transportation funding bills, Congress has distributed about 80 percent of the money through formulas and about 20 percent as a discretionary matter. But in MAP–21, the number went up to 92 percent through formula, leaving you with very little discretionary money. So, we saw a real move away from discretionary spending.

So, Mr. Rogoff, I just want to ask, and I have to ask briefly because I am running out of time here, do you think the decrease in discretionary funding has hurt the FTA's ability to fund worthwhile projects?

Mr. ROGOFF. Well, I think it is a little too early to tell that, but I can speak to the problems that have surfaced for the absence of those discretionary dollars. Over 3 years, we were very successful in competing the bus discretionary dollars that we had for bus operators, not only just bus-only operators, but also larger systems that do bus and rail operations. We put out over $2.5 billion over those 3 years and it was done without earmarks. It was done strictly on a merit-based system and we felt like we did a very good job.

The reduction in, especially on the bus operator side, the loss of discretionary dollars and redistributing some of those dollars—not all of those dollars, and that has been a source of considerable concern by the bus-only operators who took a financial hit, in their view, through MAP–21—the loss of the discretionary money has meant that when they have large single investments, like it is time to replace a sizable part of their bus fleet or build a new maintenance facility, they do not get a sufficient flow of formula dollars to be able to cobble together enough money to make that significant sizable investment, and that is what the discretionary program was for, and that may be something that this Committee wants to look at anew as they do reauthorization again.

Senator WARREN. OK. Thank you very much, because we all want to see the money spent in the most effective way, and whether that means a little more discretion for the agency may accomplish that is something we certainly should be taking a look at.

Thank you, Mr. Chairman.

Chairman JOHNSON. Senator Tester.

Senator TESTER. Yes, thank you, Mr. Chairman.

I want to thank both members for their testimony today. The rural aspect has been mentioned several times, and so I am going to mention it, too.

Mr. ROGOFF. Awesome.

Senator TESTER. Very quickly, when it comes to the National Public Transportation Safety Plan, I think the key is making sure we do not have a one-size-fits-all and making sure you are getting input from rural transit systems. All I need is a commitment from you to continue to do that.

Mr. ROGOFF. Absolutely.

Senator TESTER. That is it. Good enough.

[Laughter.]

Senator TESTER. I want to talk about Tribal transit programs. You mentioned this in your testimony. I think Congress has made some significant investments in Tribal transit through MAP–21. They have doubled some funds available for the Tribal Transit Program. They continue to build transportation infrastructure on Tribal lands. It is very important, whether it is for health care, education, economic opportunity, whatever it might be. Beyond the investments made in MAP–21, I think it is critical that Tribes continue to receive technical assistance and support from the FTA to grow and establish transit systems. You have done some outreach at FTA this fall and I look forward to learning about future efforts.

I just need to have you share your perspective, your thoughts, on the success of the FTA's outreach so far in Tribal America and what the FTA intends to do to continue to build on success.

Mr. ROGOFF. Well, Mr. Tester, the Tribal Program was effectively doubled under MAP–21.

Senator TESTER. Correct.

Mr. ROGOFF. However, we moved from a $15 million—it sort of follows up on what Senator Warren was saying. We move from a $15 million discretionary program to a $30 million program of which $25 million was by formula and only $5 million was discretionary.

Senator TESTER. Right.

Mr. ROGOFF. This left us with the charge of developing a fair formula that we could put out to the Tribes, and I will be honest, most of the outreach recently with the Tribal community has been around building that formula and informing them what amount of money they could expect.

Capacity building in Tribal transit is absolutely critical. We spend a great deal of time trying to work with the Tribes to make them to be eligible grantees, to spend the dollars the right way. Especially given the critical mobility needs, that is absolutely a lifeline to the opportunities for employment for many of those Tribes.

So, we are doing more and would expect to do more in the future once we have sort of nailed down the funding stream they could expect through this formula. We are concerned, quite frankly, that one of the outgrowths of the formula is some of the payments that sort of spit out from that formula are quite low, not—so, while Tribes are sort of given a guaranteed level of assistance, it may not be a sufficient sum to really do something meaningful in terms of launching and supporting a service on an ongoing basis, which may again be something that the Committee wants to look at going forward.

But, absolutely, we want to make sure that the dollars we are putting out there are spent wisely. I think we will have a new challenge. When we had all of these dollars on a discretionary basis, frankly, we could make a judgment call as to whether an individual Tribe was ready to receive and put these funds to good use. Now that we are distributing them all by formula, we will certainly work to ensure that that is the case, but we must put that money against them, because they are entitled to it by formula, while we work to get them to that capable place and that is going to be an added challenge.

Senator TESTER. Yes. I thank you, and you answered my second question with that answer, so I want to thank you very much. I mean, I just think you get it. I mean, the travel infrastructure is critical important. Poverty is rampant in rural Tribes, at least, and we need to figure out ways to lift them out of poverty and I think this infrastructure is a part of it.

Mr. ROGOFF. Absolutely.

Senator TESTER. You, according to Senator Reed, are up for Under Secretary for Policy.

Mr. ROGOFF. I will be moved at the end of next week to be the Acting Under Secretary for Policy, yes, sir.

Senator TESTER. OK. So, I do not want you to think this is a confirmation hearing in that regard, but I do want to know, since we are talking about policy, what role toll roads are going to be playing in the future of the Highway Administration.

Mr. ROGOFF. Well, that is a very uncontroversial question. Thanks for it.

[Laughter.]

Senator TESTER. I am only here to help.

[Laughter.]

Mr. ROGOFF. Yes. Right. Senator, I feel comfortable answering this as the Federal Transit Administrator because tolling has been an important source of funding for a number of transit expansions. There is a rich debate that we are going to need to have as a Nation over the issue of the concept that toll payers have paid for the road once and, therefore, should not pay again, which is sort of one argument, the other argument being that the maintenance and upkeep of that toll road requires more in continued investment, which the toll payers probably have not covered over the life of the structure.

And, I think, importantly, tolls are clearly part of the mix, and somewhat consistent with the answer I gave to Senator Johanns, we need to look at every available revenue opportunity and look at both the fairness issues, but also what revenues they may present to us in terms of solving this Trust Fund problem.

Senator JOHANNS. Yes, and I thank you for that answer and I am going to let it go for a second, but I think it is really important from my perspective, being part of the legislative branch in this business, that we have the debate before you enact the policy. I just think it is really important.

Mr. ROGOFF. Well, there are Federal strictures in terms of what is and is not permissible on the toll road funds.

Senator TESTER. I have got you, and I will just tell you this so you know. I mean, I think if the Department gets out in front in advocating, I think that is a problem. But for others on this Committee, they might think that is a good idea, too. So, that is why we need to have the debate.

Mr. ROGOFF. No, I hear you, Senator. What I meant by that is there are Federal statutory rules that limit the Department's discretion in this area, and if something was going to be done dramatic on the tolling front, obviously, we would need to have a dialog with Congress, which we would have anyway, even if we had the authority ourselves.

Senator TESTER. Thank you, Mr. Chairman.

Chairman JOHNSON. Senator Manchin.

Senator MANCHIN. Thank you, Mr. Chairman, and thank you all for your appearance today and your testimony.

I, too, come from a very rural State of West Virginia and we depend an awful lot on mass transit, and especially our bus transportation, and we do have some train transportation in our Eastern panhandle which we are very much concerned about, with the MARC train over there——

Mr. ROGOFF. Right.

Senator MANCHIN. ——and, hopefully, you all would be attentive to that.

With that being said, recently, I have heard from a number of the transit authorities in my State that the distribution of grant dollars from the FTA has slowed down significantly. What used to take a couple of months is taking more than a year now. Can you identify any specific causes for the increase of delay, and maybe with us on the verge of having our first budget, that might help relieve that some?

Mr. ROGOFF. Well, Senator, I would like to work with your office and understand which particular pots of money they are referring to because it is a little perplexing to me. I am not familiar with that dynamic, other than the fact—other than the dynamic that you just cited——

Senator MANCHIN. Almost universal from my——

Mr. ROGOFF. and that is that we are waiting—we have to, obviously, await a 2014 final appropriation——

Senator MANCHIN. Right. I understand that.

Mr. ROGOFF. ——before we apportion that 2014 budget.

Senator MANCHIN. But this is in the past. They have been telling me—we checked with everybody before I came to the hearing and all of them have been having the long delays in getting any grant monies whatsoever. But we will get with you, sir, after this if you——

Mr. ROGOFF. I would appreciate it.

Senator MANCHIN. OK.

Mr. ROGOFF. I think the issue here may be there have been years when we have gotten a CR for a longer period of time. As you know, some of the CRs stretched well into, like, March and April in the most recent year, and, therefore, we did a partial apportionment of funds. We did not do that this year in the hope and expectation, once the budget deal was announced, that we would be getting a budget in January, and it looks like we will be——

Senator MANCHIN. Yes.

Mr. ROGOFF. ——in which case we will be getting out an apportionment notice very quickly.

Senator MANCHIN. Let me——

Mr. ROGOFF. But if there is a larger problem, I would like to know about it.

Senator MANCHIN. We will. We will get right with you on that, then, sir. Thank you.

And also on that, you know, nationally, 53 percent of the public transportation is by bus.

Mr. ROGOFF. Absolutely.

Senator MANCHIN. But only 10 percent of the money goes toward bus transportation. Do you think that is a proportionate, proper mix?

Mr. ROGOFF. Well, I think when you look at that issue, you also have to be cognizant of where the costs are. There are considerably lower costs to operate a bus system versus operating a rail system. As I said in my opening statement, we are under-investing nationally both in the bus infrastructure and in the rail infrastructure——

Senator MANCHIN. But does it not seem like 10 percent to 90 percent is disproportionate there as far as the mass transportation, when you are moving 53 percent of the people in America?

Mr. ROGOFF. I—I do not——

Senator MANCHIN. I would hope so.

Mr. ROGOFF. ——want to be baited into a formula fight, Senator, but——

[Laughter.]

Senator MANCHIN. OK.

Mr. ROGOFF. ——I take your point. I have often reminded people, as I did just yesterday at the Transportation Research Board, of the very point that you make, and that is that more than half of the transit trips in America is still taken by bus——

Senator MANCHIN. Maybe we can have those people come to a meeting, Mr. Chairman, at a future time, if it might be more helpful to us in rural States, sir.

If I can go on to this, on transportation fuel. I have often said, when I was Governor of the State of West Virginia and talking in the National Governors Association, we were looking at different ways to maximize our fuel efficiency and taking advantage of what we have in our country. With the abundance of natural gas coming on in our State and our country right now, I thought that you all could really lead the charge on giving us the incentives to change toward natural gas-powered vehicles. The uptick from that is that going from diesel to natural gas-propelled vehicle is a little bit expensive and they are just kind of staying where they are unless they get that incentive.

And here is the thing that it would lead to, sir. We looked at this, too. If you take that lead and we follow up with our State, with our school transportation, all of our school buses, every State could transform its commercial, what we call its commercial vehicular traffic away from petroleum into natural gas with you all taking the lead on mass transit. We are going in with public transportation, as far as our schoolchildren. And then we follow right up with our State vehicles and our State road vehicles.

The reason I say that is it does not have to transform every utility or every infrastructure as far as gas station in my State or in the country. Those are all bulk stations. Most of the gas companies will convert those free if they get any type of a contract. No cost of conversion. The only cost we have is that first uptick, going to a natural gas-powered. If you could look at that differently, it would help us. We could reduce about 20 to 25 percent, I am told, our dependency on petroleum.

Mr. ROGOFF. Well, a couple of thoughts, Senator. First, I think the agency has historically leaned very far forward to try to promote the development of natural gas buses, and if you look across how we spent our research dollars, we have been sort of on the cutting edge of——

Senator MANCHIN. Right.

Mr. ROGOFF. So, now, we are actually on to the next generation in terms of trying to—you know, natural gas buses are very much embedded in the fleet now. I believe every bus now operating in the LACMTA system in Los Angeles is a natural gas bus.

You are right that there is an added investment cost going in, but——

Senator MANCHIN. After you get there, you are OK.

Mr. ROGOFF. ——it clearly pays itself back over the 12 years of the natural life of the bus, including, often, the cost of the fueling infrastructure. So, yes, we can.

Now, you have mentioned some other ideas on what we can do with school buses. We obviously do not play in that space——

Senator MANCHIN. No. I am saying, you set the tone. The Federal Government setting the tone, that if we all started looking at our mass transportation first coming from the Federal grants that we get——

Mr. ROGOFF. Mm-hmm.

Senator MANCHIN. ——and there was an incentive for us to convert, I will assure you that States will start following. It gives them more of an impetus to do that. And if they do that, and if 50 States were able to do that, we would reduce, I am told, around 20 to 25 percent of our dependency. And, basically, all of these are done locally, so county by county. You know, they run day—you can fill up a natural gas commercial vehicle and run all day in a county.

Mr. ROGOFF. Right.

Senator MANCHIN. You do not have to worry about, "can I find a filling station near there?"

Mr. ROGOFF. Right.

Senator MANCHIN. They are running out of bulk stations. It is the most doable thing that we have, to convert and remove about 25 percent of our dependency——

Mr. ROGOFF. Well, we can——

Senator MANCHIN. ——over that 5-year period.

Mr. ROGOFF. We have had periodically in the program percentage incentives, which is to say——

Senator MANCHIN. Sure.

Mr. ROGOFF. ——a lower local match in order to go with a cleaner fuel bus. I am not sure that that was the strongest and most effective impetus to make it happen. Part of this is whether we, as a matter of Federal policy, are going to try to dictate those local decisions. You know, that is something I think the Committee should debate.

Senator MANCHIN. I am not saying dictate. Basically, the only thing I am saying is if——

Mr. ROGOFF. Incentivize them.

Senator MANCHIN. You are giving us X-amount of dollars to buy a diesel bus, OK.

Mr. ROGOFF. Right.

Senator MANCHIN. Let us say that the same incentive—you give us the same amount of money to buy a natural gas bus. Let us make the decision.

Mr. ROGOFF. We do give them the same. I mean, the vast majority of the bus dollars for purchase are done by formula. We have had a separate discretionary—it is converted to what is called the Low and No Emissions Bus Program, but heretofore, we have had a Clean Fuels Program where we have bought a lot of natural gas buses as well as sort of the first earliest generations of electric buses.

Senator MANCHIN. Sure.

Mr. ROGOFF. So, those incentives have been there, and I do believe we have advanced—we have made those vehicles commercially viable through those grants and building the critical mass of buys to make the manufacturers go into that space. And I think if Huntington, West Virginia, wanted to buy a natural gas bus and used their formula dollars for that versus a diesel bus, they are both eligible expenses and we do not blink either way.

Senator MANCHIN. OK. I will work with you on that. I am way over my time, but I would like to work with you on this.

Mr. ROGOFF. Absolutely.

Senator MANCHIN. It has great potential, and you all—we could lead the charge here.

Mr. ROGOFF. I think there is also an opportunity to sit with the Energy Department at the same time when we do that for those issues that you talked about, conversion of stations, conversions of school buses——

Senator MANCHIN. The conversions will be done.

Mr. ROGOFF. Mm-hmm.

Senator MANCHIN. The private sector will come in and do the conversions at no cost to the taxpayers, none. They are going to have a 10-year return, now. They want——

Mr. ROGOFF. Right.

Senator MANCHIN. And that is fine. We can work those details out——

Mr. ROGOFF. Well, on the bus front, we are looking for a 12-year return, so——

Senator MANCHIN. OK. We can mirror those two up.

Mr. ROGOFF. OK. I look forward to it.

Senator MANCHIN. Thank you, sir.

Mr. ROGOFF. Yes, sir.

Chairman JOHNSON. I am told that Senator Schumer is on his way, so Senator Menendez, take your time.

[Laughter.]

Senator MENENDEZ. OK. I am happy to hear that, Mr. Chairman, and I would like to ask that a statement I have be included in the record.

Administrator, first, let me say I welcome my colleague from West Virginia's interest in mass transit. We need more advocates. As someone who is one of the leaders of the fight here on mass transit and all of its iterations, I can tell you, we can use all the help we can get because it is constantly a challenge, and that is why I appreciate hearing it, because it is constantly a challenge to understand the importance of mass transit in our funding formula, as we worked hard last year to get MAP–21 to ratchet it up a little bit, but we are still nowhere near where we should be for the demands that there are, whether they be light rail or bus or whatever.

And I just want to compliment you, Administrator, for a very, I think, good job in the midst of a lot of challenges, and I appreciate your approach to the whole effort nationally on mass transit.

In that regard, let me say that in MAP–21, I worked to create a new transit-oriented development planning pilot program to provide grants for communities to create mixed-use walkable developments around federally supported transit lines, and I sent a letter to FTA this December with seven of my colleagues, including three on this Committee—Senators Schumer, Warner, and Hagan—asking for this program to be expedited. To date, the FTA has not made an announcement of funds for this program, which is authorized at $10 million in fiscal year 2013 and 2014. And given the short timeframe of MAP–21, it is important that we get this program underway so we have results to evaluate sooner rather than later.

So, why has the FTA not yet announced the availability of funding for this program and what time line do you have for making this announcement?

Mr. ROGOFF. Senator, we are well aware of the program and cognizant of the Committee Members' interest, and most notably yours, as a champion for the program. We, quite frankly, in our prioritization scheme—I was asked earlier by Senator Crapo, what were we going to prioritize given all of the new requirements of MAP–21. As I said in my opening statement, MAP–21 for transit was, like, 7 years of policy in a 2-year bill and we had to prioritize what we were going to take on in what order.

As it relates to the TOD Development Program, we thought it wise, not just from our own selfish administrative responsibilities, but also for the opportunities for the communities to come in, to get 2 years of money and then compete 2 years of money. So, we will have a competition for the full $20 million rather than $10 million 1 year and $10 million the next. We thought that would be both efficient, also increase the opportunities for a diversity of players to come in at a more meaningful level of money.

Our goal is to start that process and get notices out the door in the spring and compete it this summer. I apologize for the delay in getting to this. It is stacked up with a lot of other new MAP–21 requirements, most notably the safety requirements, which we very much welcome the changes to the formula programs, which we obviously had to put out on the street very rapidly.

Senator MENENDEZ. Well, I appreciate that, and I realize what we did in MAP–21, because I was working with the Chair as the Subcommittee Chair. We put a lot of things in there. But, to the extent that we have a pilot program and resources dedicated for it, what I would hate to see is that the pilot program does not ever get to fruition because we have waited too late——

Mr. ROGOFF. No. That is not going to happen. It is strictly a matter of time.

Senator MENENDEZ. All right. Next is, FTA recently announced the next round of Sandy recovery transit funding, $3 billion for resiliency efforts. And according to your announcement, this funding is, quote, "intended to protect public transportation infrastructure that has been repaired or rebuilt after Hurricane Sandy or that is at a risk of being damaged or destroyed by a future natural disaster." It also goes on to state that you may consider geographic diversity and diversity between transit modes when making these awards.

My question is, how high of a priority will FTA place on protecting assets that were hardest hit by Hurricane Sandy, and how are you going to balance the considerations of geographic and model diversity versus protecting the areas most devastated by Hurricane Sandy?

Mr. ROGOFF. Well, I have said before, at this table, in fact, but in other venues, that our highest priority in allocating these funds is going to be protecting the existing transit infrastructure that serves millions of passengers each day. Those systems, those existing rail lines, have, in many cases, flooded multiple times. As you know, some of the infrastructures that flooded under Hurricane Sandy had flooded just 1 year earlier under Hurricane Irene. And the President in requesting this resiliency funding made clear that he puts a strong priority on ensuring that the taxpayers will not, going forward, have to pay to restore the infrastructure a second, third, or a fourth time. That is going to be our priority as we look at it.

We are going to be working carefully, and we have conferences set up with all the likely applicants, to talk about looking at a comprehensive plan and seeing how they are going to protect the most vulnerable elements of the system and look at it from the perspective of a system, which is to say, we are not very interested in an investment that will ensure that we have protected one portion of a rail line if, in fact, we are just going to have some other portion of the rail line that also is serving 80 percent of the same traffic washed out. That is not going to maintain mobility in the face of the next disaster.

So, those are going to be our priorities going in. It is hard for me to say now, until we get all the applications in, how some of the other factors like geographic diversity and other things will play out. I think we have put out a good notice that takes into account all of the critical factors that we need to look at, and when we get the applications in, we will then have to rack and stack them, make sure that the investments are cost beneficial, capture the most critical infrastructure on both sides of the river, and also make sure that we are fulfilling the President's commitment to ensuring that we do not pay a second and third and fourth time to restore it.

Senator MENENDEZ. Well, I appreciate that. I mean, as someone who, along with Senator Schumer, led the fight for the Sandy money and particularly to make sure that the transportation elements of it were part of it, I certainly believe that the consequences of systems moving large numbers of Americans and who have a history of constant challenges due to flooding and weather-related issues make a highest priority use, just simply on the number of people being serviced and the reality that we have had repetitive loss. So, we want to avoid the repetitive loss for the taxpayers. We want to maximize the number of Americans who are using a transit system. So, while there is obviously a whole host of challenges, I look forward to that being the reality.

Finally, if I may, Mr. Chairman, Mr. Wise, with reference to bus rapid transit projects, how do you see the role of the BRT playing in the future of U.S. transit services? These projects are very often appealing as a lower-cost, more flexible transit option, but they lack some of the service characteristics and economic development potential of others.

Mr. WISE. Yes to both of those, Senator. Thank you. In the work we did for the Committee several years ago on BRT, I think the results of that are promising, but there are constraints, as you mentioned. A bus is not a train and some people view it that way. That said, given the funding environment that we are in right now and will be in for the foreseeable future, I think many see BRT as a good alternative and one that is much more feasible to implement than rail, which tends to be relatively more expensive.

Now, that said, there are characteristics of BRT that are being implemented that make it stand apart from regular buses. In the systems that we visited—Seattle, Eugene, a few other places—there are nicer, newer, more brightly painted buses. The bus stops will be nicer than regular bus stops. Passengers can buy tickets from special machines. So, there are some similarities to rail travel.

Probably the poster child for the best BRT system in the world is in Bogota, Colombia, where it looks very much like a train. In fact, you have to look closely to see the difference. The stations are very ornate, similar to very nice rail stations. You do not really see that here, and the dedicated guideways are also kind of a mixed bag. There are some where they have more dedicated guideways than others, and some of that, again, is cost.

I recall that, when we visited the system in Eugene-Springfield, Oregon, there were a couple areas where it is just impossible to have a dedicated guideway, due to a complex intersection. Most of the people that we talked to in the different systems see promise with BRT. It is much less expensive and much quicker to implement, compared to rail and they have generally encouraged economic development.

The BRT line in Cleveland, Ohio, is a good example. Officials there told us they have seen $4 to $5 billion worth of development along that Euclid Avenue corridor that leads from downtown up to the Cleveland Clinic area. Another BRT line in Kansas City in a rather depressed area not too far from downtown Kansas City, the Troost System there has brought some additional development and obtained some additional urban development, grants, with the hope that the BRT was going to help spur development in that area.

We also are seeing potential development here in Montgomery County, MD, which is looking to implement a fairly extensive bus rapid transit system along the Interstate-270 corridor. I think a lot of jurisdictions are seeing real promise in bus rapid transit.

Senator MENENDEZ. Thank you, Mr. Chairman.

Chairman JOHNSON. Senator Schumer.

Senator SCHUMER. Thank you, Mr. Chairman, and I want to welcome you, Mr. Wise, and congratulate you, Mr. Rogoff, on your promotion. I know you from your days here. I know you are filling large shoes, because Polly Trottenberg, your predecessor——

Mr. ROGOFF. Very large shoes.

Senator SCHUMER. ——worked for me for 9 years and now is going on to become DOT Commissioner in New York City. I know that office well, my wife having served there, and I know she will do a great job. But, I am glad you are there.

Mr. ROGOFF. Thank you, sir.

Senator SCHUMER. We feel very good about that.

I have a few questions, first regarding capital grants under 5309. I know that under MAP–21, we tried to streamline and accelerate project delivery on both New Starts and Small Starts. I know that is working well, so I congratulate you on that.

I have a couple of specifics here in terms of BRT. First, Albany, our Capital District Transportation Authority is becoming a leader in BRT. Albany is growing. They have a lot of economic activity and they are a city—they have three sort of core cities, Troy, Schenectady, and Albany, and all the people living amidst those, so it is made for—it has a metropolitan area of a little over a million people. It is not large enough for a subway system, a rail system, but bus rapid transit, it is made for it. It fits to a T.

I helped them get a grant to plan their BRT. They have been working with FTA regional offices in New York. They are poised to apply for an admission to the Small Starts Program. They are already working really well on this. They have a Red Line already from downtown Albany to downtown Schenectady. They have planned two more, one to go to Troy and one to go out to the University at Albany. It is great. So, are you familiar with the plan in Albany at all?

Mr. ROGOFF. I am, and I have spoken with people at CDTA. We were pleased to help give them that planning grant, and you are right, they are well along in their development. I think the good news here, really, as it relates to this project and all of the interested new entrants to the New Starts and Small Starts Program, is the conference agreement that is currently pending on the floor.

Senator SCHUMER. Right.

Mr. ROGOFF. You will recall, last year, the combination of the Continuing Resolution and then the sequester below that left funding for the New Starts and Small Starts Program in a place where we could not even fulfill our existing obligations that we had already signed up. The appropriations bill currently pending before you is, through the combination of unobligated balances and new appropriations, gets us to our request level——

Senator SCHUMER. Right.

Mr. ROGOFF. ——which means we are going to be about the business—we are back in the business of looking at——

Senator SCHUMER. Good.

Mr. ROGOFF. ——new folks to admit to——

Senator SCHUMER. Can I have your commitment, you will work personally with CDTA and do everything you can to see that it is admitted to the Small Starts Program?

Mr. ROGOFF. Sure. When they make the requisite request, we see no showstoppers right now——

Senator SCHUMER. Great.

Mr. ROGOFF. ——to them coming in and having a successful project.

Senator SCHUMER. Great. Now, our second one is Buffalo, similar. Buffalo has experimented with different kinds of transit, particularly the Main Street Project, which was a flop——

Mr. ROGOFF. Yes.

Senator SCHUMER. ——and we are helping them undo that right now, 30 years later. But they, too, are made for this type of system. Again, similar size, about a million—a little more than a million and a half people in the metropolitan area. They want to study an extension of the Buffalo Transit System out to Amherst, which is an Eastern suburb and where the University of Buffalo is, and now University of Buffalo is in the Medical Corridor, so it is a perfect situation. Again, can I have your commitment to help them get into the Small Starts Program, as well?

Mr. ROGOFF. Yes, we will look at their applications as they come in, but here again, I think it is fair to say that the NFTA has taken some time to figure out what it is they want to do.

Senator SCHUMER. Yes.

Mr. ROGOFF. And, I think, Mr. Wise just pointed out some of the benefits we can really see when we do bus rapid transit the right way——

Senator SCHUMER. Yes.

Mr. ROGOFF. ——which is to say, you do all of the full investments, the unique stations, the unique vehicles, level boarding, signal priority, which means they almost always get a green light when they hit a signal. You could really move quite a number of people at a very affordable cost compared to rail.

Senator SCHUMER. Right.

Mr. ROGOFF. So, we welcome NFTA——

Senator SCHUMER. Do you see any barriers in the way there?

Mr. ROGOFF. Absolutely—well, there are, as pointed out, there are some geometric hurdles you cannot always overcome, but there are also great opportunities. And I think whenever you connect large employers like the University and the health center, those are the kind of segments that we see great success in servicing like this.

Senator SCHUMER. Great. Next, I would like to go to Gateway. As you know, New Starts has been really helpful for both the Second Avenue Subway and East Side Access, two of the largest projects in the country that we have supported. Now, there is another being developed on the Western end, the sort of mirror image of East Side Access, is Amtrak's Gateway Program to build—and I am sure Bob is very interested in this, as well—to build two new tunnels under the Hudson River into Manhattan. The current tunnels are 100 years old. They are not floodproof. They are at full capacity. It is not just a passenger rail project, but a critical transit project. New Jersey Transit runs two-thirds of the trains bringing workers from New Jersey to Manhattan. We had ARC—we had a fight with Governor Christie over that—and they had Federal funding. So, now we are going back at it because the need for tunnels is crucial. So, I had three questions on the Gateway program. First, do you agree it is a critical passenger rail and transit project? Second, do you believe it could be a candidate for the New Starts Program? And, third, do you need legislative authority to admit Gateway into the New Starts Program?

Mr. ROGOFF. Let me take those in order. You correctly point out, we have had a very painful history in trying to get the necessary tunneling capacity under the Hudson, and the tunnels that are currently serving an extraordinary number of passengers, both on the Amtrak side and the New Jersey Transit side, are——

Senator MENENDEZ. That is very diplomatic, Mr. Chairman, the "painful history."

Mr. ROGOFF. Those tunnels are over 100 years old. Your first question, do I agree that it is an essential investment, we absolutely must do something about those. I believe we are approaching 110-year-old tunnels.

Senator SCHUMER. Right.

Mr. ROGOFF. They not only constrain capacity, but at a certain point, they will become a real safety risk.

Senator SCHUMER. Right.

Mr. ROGOFF. And, you know, think about the upheaval that will result if we were to lose that capacity all of a sudden.

Senator SCHUMER. Right.

Mr. ROGOFF. Could it be a candidate for the New Starts Program? Yes, it could. What we would need is a local project sponsor to come forward and do all the development work, and most importantly, come up with the necessary local match.

Senator SCHUMER. Yes.

Mr. ROGOFF. And your final question, do I need special legislation to help make that happen, we will take a round turn on that, but I do not think so.

Senator SCHUMER. Good.

Mr. ROGOFF. I think—I mean, obviously, the entire program expires at the end of the year, but I think the question you may be alluding to is how do we deal with a New Start Project for which Amtrak is a participant.

Senator SCHUMER. Yes.

Mr. ROGOFF. I do not know if I need new legislation for that. I think that——

Senator SCHUMER. Would you check and get back to us?

Mr. ROGOFF. You know, we can. I know we have had Amtrak do some necessary investments even as part of East Side Access. They are responsible for the Harold Interlocking, which is a very large portion of that project. So, there may be a way of doing this without special legislation, but if it is needed, we will certainly call it to your attention.

Senator SCHUMER. OK. You do not think it will be.

Mr. ROGOFF. I do not think so on its face, but I would want to go and dig into——

Senator SCHUMER. Could you get back to me in writing——

Mr. ROGOFF. Absolutely.

Senator SCHUMER. ——in a couple of days on that?

Mr. ROGOFF. Sure.

Senator SCHUMER. Great. Finally, just the Montague Tunnel. As you know, we have a real interest in restoring this tunnel. Give me a status report on how it is going, how the repair is going.

Mr. ROGOFF. My understanding is things are going along well. This is one of the benefits that you get from closing the entire facility, is you do not have to worry about the safety risks posed by the workers. You have the ability to put all kinds of equipment in the tunnel because you do not have to move trains through it at the same time. I have heard nothing to the effect that they are off schedule or over-budget, and indeed, in some of these tunnels, we are making through what we call our local resiliency funding some investments to just allow them to move the utilities to the roof of the tunnel, so should we have flooding again, we will not lose all the signaling capacity and all the cabling and stuff.

Senator SCHUMER. So, it is full speed ahead.

Mr. ROGOFF. Yes, sir.

Senator SCHUMER. Thank you, Mr. Chairman.

Chairman JOHNSON. I want to thank our witnesses for your testimony today. This hearing is adjourned.

[Whereupon, at 11:31 a.m., the hearing was adjourned.]

[Prepared statements and responses to written questions supplied for the record follow:]

PREPARED STATEMENT OF PETER M. ROGOFF

ADMINISTRATOR, FEDERAL TRANSIT ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

JANUARY 16, 2014

Mr. Chairman, Ranking Member Crapo, and Members of the Committee: Thank you for inviting me to appear before you today to report on the Federal Transit Administration's (FTA) progress toward implementing public transportation assistance programs under the Moving Ahead for Progress in the 21st Century Act, known as MAP–21. This 2-year reauthorization codifies some of President Obama's highest priorities for enhancing the safety of public transportation, strengthening our Nation's transportation infrastructure, and streamlining Government to serve taxpayers' needs more efficiently.

I want to thank the Committee for its support in passing MAP–21, which has offered an opportunity for us to work together to support transit systems across the country at a time when national ridership is on track to exceed 10 billion trips annually for the seventh year in a row. Through investment in public transportation, we spur new economic development to help build strong communities in cities, suburbs, and rural areas alike.

Progress Made Despite Fiscal Challenges

MAP–21, which took effect on October 1, 2012, authorizes $10.6 billion in Fiscal Year (FY) 2013 and $10.7 billion in FY2014 for public transportation. FTA has made significant progress in implementing key provisions and providing guidance to States, metropolitan planning organizations and transit agencies. We have an active and engaged legislative implementation team and an aggressive timetable in place that helps to ensure that the American people can reap the benefits associated with investing in public transportation services that improve transportation equity, provide access to jobs and services, offer an efficient alternative to congested urban traffic, and stimulate economic development in cities and communities throughout the Nation.

I discuss, below, several areas where FTA has made real progress to implement MAP–21. However, I fully recognize that much work and many challenges lie ahead. Chief among these challenges are significant annual funding constraints and the potential insolvency of the Mass Transit Account of the Highway Trust Fund.

The funding constraints imposed by the full FY2013 and the partial FY2014 continuing resolutions, coupled with cuts imposed by sequestration—including a $5 million cut in our administrative budget—have hampered our ability to move implementation forward at an even more rapid pace. The cuts have, for instance, affected our ability to implement significant new safety authority and reduced our ability to conduct outreach and training with stakeholders. Every budget request under my stewardship has sought additional funding to allow for additional staffing at FTA to better address our core responsibilities. Congress has yet to provide those resources. Moreover, in FY2013, FTA had more than 30 New Starts projects in the pipeline, but since that time, FTA has been unable to make new funding commitments to any of those projects for the first time in roughly 20 years. Consequently, for the first time, FTA was unable to keep its financial end of the bargain, cutting payments owed to communities with projects already under way, which potentially raises local costs as project sponsors and local governments seek to make up for the Federal Government's shortfall.

With respect to the Mass Transit Account of the Highway Trust Fund, estimates of the account's cash balance at the time MAP–21 was enacted were assumed to be sufficient through FY2014. We have reason for concern as to whether this will be the case going forward. The U.S. Departments of Transportation (DOT) and Treasury are currently in the process of updating program outlay and revenue assumptions used to estimate trust fund balances as part of the President's FY2015 budget. These estimates will be important in determining whether the cash balance is sufficient through the remainder of the current authorization and will provide useful information on the cash balance needed beyond FY2014. Once the President's budget is transmitted to Congress, FTA and DOT will brief the Committee on the new estimates, upon request.

Despite such challenges, we have nevertheless achieved several significant milestones for implementing MAP–21, most notably with respect to safety; state-of-good-repair needs; the capital investment grant program; and our new Emergency Relief Program. A summary of progress in these and other areas follows.

Safety Authority

MAP–21 gave FTA long-sought authority to establish safety criteria for all modes of public transportation and establish minimum safety standards for public transportation vehicles used in revenue operations. Implementing the new safety provisions in MAP–21 has been among our highest priorities. In October 2013, FTA issued an Advanced Notice of Proposed Rulemaking (ANPRM) on Safety and Transit Asset Management. The ANPRM signals FTA's commitment to ensure that efforts to keep transit systems in good working order go hand-in-hand with efforts to keep them safe. FTA is now reviewing over 150 comments submitted by safety advocates, industry leaders, and the general public on key topics, such as:

- Developing and implementing meaningful national, State-level, and transit agency safety plans; and
- Implementing a national transit asset management program to help transit agencies establish a systematic means for managing their assets and establishing performance measures for making improvements to the condition of their facilities, equipment, rolling stock, and infrastructure.

While Congress has yet to appropriate additional administrative funds to carry out this new area of responsibility, FTA has established a new safety office using already strained existing resources. FTA is sensitive to stakeholder concerns on this new safety oversight authority and will build a 21st century regulatory program over a period of several years only after careful consideration of comments received from our stakeholders and the public.

In May 2013, FTA made available for the first time approximately $22 million in Federal matching funds to help strengthen public transportation safety for millions of riders and transit workers nationwide. The funding notice included a proposed formula for the apportionment of those funds based on MAP–21 criteria. During the past 3 months, FTA has aggressively and proactively reached out to the 30 States with State safety oversight (SSO) obligations through face-to-face meetings and one-on-one conference calls to ensure that their programs will conform with MAP–21's new requirements, thereby positioning those States to receive a share of the $21.9 million available to carry out SSO responsibilities. FTA expects to release these funds in the near future.

Going forward, FTA will act as the leader, facilitator, and final regulatory authority setting minimum safety standards, and be held fundamentally accountable for the overall safety performance of the Nation's fixed-guideway rail transit systems. To achieve these goals, FTA will concentrate on strengthening the capacity of SSOs to serve as effective day-to-day safety regulators capable of holding transit systems accountable for safe operations at the local level and ensuring they comply with minimum safety standards.

Additionally, FTA will work to adapt its comprehensive safety approach to all modes of public transportation within its safety authority. Specifically, we will work to ensure that the bus segment of public transportation, upon which millions of riders depend every day, receives the resources, tools and technical assistance it too will need to ensure the safety of the riding public.

State of Good Repair and Transit Asset Management

Since 2008, FTA has staked out a leadership role in highlighting the critical need to bring the Nation's aging transit assets into a state of good repair, especially in large urban areas—and to hold transit agencies accountable for implementing a more strategic approach to managing the lifecycle of their assets. The momentum we have initiated is real, but the gains that will truly benefit the American people require sustained investment. FTA obligated $1.9 billion—about one-fifth of our share of funds under the American Recovery and Reinvestment Act of 2009—and also allocated more than $2.2 billion in discretionary bus funds over the last 4 years for this very purpose. Indeed, the Administration has made increased funding for a new State of Good Repair program the centerpiece of its annual budget requests for FTA. Congress incorporated our proposal on this essential area into MAP–21 by creating a more needs-based state-of-good-repair formula program for rail, ferry, and busway systems. This new program will help further address our state-of-good-repair needs, so fixed guideway agencies have a predictable 2-year stream of Federal funds to help them address an enormous maintenance and repair backlog that exceeds $78 billion nationwide. By the end of FY2013, FTA had awarded 37 formula grants funded by the State of Good Repair program for over $675.6 million. We are working to award the remaining program funds as quickly as possible.

FTA recognizes that while a sustained Federal contribution to our state-of-good-repair needs is in the best interest of our Nation's public transportation systems, this problem cannot be solved by Federal action alone. Tackling this problem requires a concerted effort by Federal, State, and local resources in a coordinated, strategic manner. That is why FTA is establishing a national Transit Asset Management (TAM) System. The new section 5326 TAM program authorized under MAP–21 is vitally important to carrying out these infrastructure investments effectively and responsibly.

This innovative program requires all FTA funding recipients to adopt a strategic approach for managing their capital assets and be accountable for leveraging all available resources to bring their systems into a state of good repair. FTA has sponsored a successful public dialogue with over 700 stakeholders to obtain critical input on policy implementation. Subsequently, in October 2013, FTA used the aforementioned Safety ANPRM as an appropriate vehicle for seeking public comment on its initial interpretations, proposals it is considering, and questions regarding the requirements of the national TAM System. This includes proposed options under consideration for defining and measuring state of good repair, and the relationship among safety, transit asset management and state of good repair. Comments we receive on the ANPRM will be very helpful to us in drafting a proposed definition of state of good repair in the future rulemaking we will issue on TAM.

FTA will solicit comments in the Federal Register on ways to improve how asset inventories and asset conditions are reported to the National Transit Database—an important first step toward refining estimates of the Nation's transit-related state-of-good-repair backlog. This is a very important initiative that will assist FTA in ensuring that local transit investment financed with Federal dollars are being effectively targeted on each transit agency's greatest needs. It will also assist us in ensuring that Federal investments are being well-managed and well-utilized.

Capital Investment Grants (New Starts/Small Starts)

Managing costs on capital investment grant projects is a key area where FTA has made strides. Since 2009, FTA has executed 26 Full Funding Grant Agreements or Project Construction Grant Agreements for new major capital investments, and 100 percent of those projects have either been completed or are on schedule to be completed on time; 96 percent of those are also on budget. This Administration has done its service to America's taxpayers, who expect no less than responsible stewardship of their investments.

Since MAP–21 went into effect, FTA has continued to cut red tape and bureaucracy so we can have more progress and less process related to New Starts planning. For example, FTA recently rolled out a new tool to help project sponsors estimate transit trips on proposed projects. The new method, known as Transit STOPS (Simplified Trips-on-Project Software), will enable some communities to reduce from 2 years to 2 weeks the time needed for project sponsors to develop ridership forecasts on planned projects. This new tool may save taxpayers in communities that do not currently have travel forecasting tools as much as 1 million dollars.

In addition, in August 2013, FTA issued final policy guidance to sponsors of New Starts and Small Starts projects, which accompanies the final rule for Major Capital Investment Projects promulgated in January 2013. The final rule adopted a more straightforward approach for measuring a proposed transit project's cost-effectiveness; expanded the range of environmental benefits used to evaluate proposed projects; added new economic development factors to its ratings process; and streamlined the project evaluation process. The revised ratings and evaluation criteria will better capture the full range of benefits that FTA's transit investments provide through the New Starts/Small Starts program, while continuing an appropriate level of oversight of taxpayer dollars. These revisions align with major purposes of MAP–21, including improving the development and delivery of capital projects and moving us toward a more performance-driven system. We appreciate the Committee's support for this important achievement.

Public Transportation Emergency Relief Program

FTA has been very aggressive in implementing the provisions of MAP–21 in the area of emergency relief. The President's budget proposed in FY2012 a new emergency relief program for FTA to parallel a similar capability in FHWA. The President proposed this program to strengthen the agency's authority to provide disaster assistance to transit agencies in the wake of major natural disasters and other emergencies. The program was authorized by Congress in MAP–21.

The authorization of this new program arrived just in time for Hurricane Sandy, which, based on the extent of storm damage, was the worst public transit disaster in the history of the United States. Hurricane Sandy devastated transportation systems in the hardest-hit parts of New York and New Jersey—which together include 3 of the 20 largest transit operators in the Nation and represent nearly 40 percent of our Nation's transit ridership—and triggered a very rapid implementation path for the program. The Disaster Relief Appropriations Act of 2013 appropriated $10.9 billion for the Emergency Relief Program for recovery, relief, and resiliency efforts in areas affected by Hurricane Sandy. Unfortunately, this amount was almost immediately reduced by $545 million as part of sequestration. FTA is allocating the remaining $10.4 billion in multiple tiers for response, recovery, and rebuilding; for locally prioritized resiliency projects; and for competitively selected resiliency work.

FTA allocated to the hardest-hit transit agencies a total of $5.7 billion for critical Sandy recovery and resiliency work in a span of approximately 16 weeks, beginning 1 week after President Obama signed the Disaster Relief Appropriations Act. Funds were allocated to the New York Metropolitan Transit Authority (MTA), the Port Authority Trans-Hudson Corp. (PATH), New Jersey Transit (NJT), the Southeastern Pennsylvania Transportation Authority (SEPTA), and others for expenses incurred while preparing for and recovering from Hurricane Sandy.

On December 23, 2013, FTA announced the availability of approximately $3 billion in Disaster Relief appropriations to strengthen the resiliency of public transportation systems affected by Hurricane Sandy. FTA will award the funds on a competitive basis first and foremost for projects that protect critical transit infrastructure from being damaged or destroyed by future natural disasters. Our goal is to advance the best regionally coordinated projects, so taxpayers will not have to pay to restore the same transit services a second or third time.

While FTA has been extraordinarily successful in responsibly and rapidly responding to the needs triggered by Hurricane Sandy, an important note of caution is in order. At present, FTA has only those emergency relief funds that Congress made available exclusively for Hurricane Sandy. The President's FY2013 and 2014 budget requests each sought $25 million to capitalize the Emergency Relief Program for disasters throughout the country. Congress did not appropriate those funds in FY2013, and the Consolidated Appropriations Act, 2014, currently under consideration, likewise does not include funding for the program. In the future, I strongly encourage Congress to appropriate the amount requested so, when the next disaster strikes and takes public transportation systems offline, FTA will be in a position to respond immediately.

FTA has made an extraordinary effort to make emergency relief and recovery funding available as expeditiously as possible, to ensure that millions of riders have access to the transit services they depend on. To that end, FTA issued an interim final rule in March 2013 that established eligible activities, processes, and procedures for applying for grants. After considering comments, FTA anticipates publishing a final rule.

Urbanized Area Formula Grants

The largest of FTA's grant programs, this program provides grants to urbanized areas to support public transportation. Funding is distributed by formula based on the level of transit service provision, population, and other factors. MAP–21 provides total funding of $4.9 billion in FY2013 and $5 billion in FY2014. The program remains largely unchanged with a few exceptions. Job access and reverse commute activities providing services to low-income individuals to access jobs have been consolidated into this program and are now an eligible expense. MAP–21 expanded eligibility for operating expenses for systems with 100 or fewer buses in urbanized areas with populations of 200,000 or more. Operating assistance remains an eligible activity for small urbanized areas.

Rural Transportation Service

The Administration recognizes that public transportation in rural areas functions not as a luxury but as a lifeline for low-income working families, seniors, veterans, individuals with disabilities, tribal residents, and others. Many people living in rural and tribal communities can ill-afford to travel considerable distances to work, medical appointments and other destinations. It is not surprising that, given these constraints, demand for public transportation in these areas has been rising. Thanks in large part to recent Federal investments in rural transit, there are now more than 1,400 operators in rural areas, providing more than 140 million rural transit trips each year. FTA anticipates that demand for rural service will continue to rise and, as a result, we will continue to need legislation and policy solutions to deliver transportation solutions that rural America needs.

MAP–21 provides $1.2 billion in funds for rural communities and Indian reservations over the next 2 years. It increases rural area formula funds by 29 percent, from $465 million to $600 million. (Under MAP–21, urbanized area formula funds increased by 6 percent over the prior authorization, SAFETEA-LU.) Funding increased for rural areas because we recognize that public transportation in these areas is urgently needed, especially for residents who do not have access to personal vehicles. Public transportation is important for providing links between workers and rural area employers, and encouraging rural economic development. Further, public transportation in rural areas can provide links to urban areas and provide access to opportunities found in those areas. For example, the VelociRFTA Bus Rapid Transit (BRT) line serving the Roaring Forks Valley, which just opened last September, is the first rural BRT line in the Nation. It allows commuters from Glenwood Springs and surrounding communities to reach employers in Aspen, about 40 miles away, in an hour. That is roughly half the time the trip takes by regular bus service. FTA committed nearly $25 million to the $46.2 million project through its Very Small Starts Capital Investment Grant program.

Tribal Transit Program

The Administration understands that access to reliable, affordable transportation is a high priority for Indian tribes. We want to ensure that every American Indian or Alaskan native who needs a ride to earn a paycheck, attend school, see the doctor, or buy groceries has that opportunity to do so.

MAP–21 doubles the funds available for the Tribal Transit program from $15 million in FY2012 to $30 million in FY2013 and FY2014. Under MAP–21, $25 million of the $30 million available for the program is distributed by formula. The remaining $5 million is provided for a discretionary grant program, and we encourage Indian tribes to apply for this funding as well. This resource will improve tribal public transportation in tribal areas throughout the United States. Tribal Transit program funds may be awarded for capital, operating, planning, job access and reverse commute projects, and administrative assistance for rural and tribal public transit services and rural intercity bus service.

MAP–21 states that Indian tribes providing public transportation shall be apportioned funds consistent with formula factors that include vehicle revenue miles and the number of low-income individuals residing on tribal lands. Funds apportioned pursuant to the formula will provide Indian tribes operating public transportation with a steady and predictable stream of funding. FTA has actively reached out to tribal and rural stakeholders to discuss the impact of proposed program changes and funding priorities and considered comments before finalizing a formula allocation methodology published in the Federal Register on May 9, 2013. This Notice also established the framework and guidance for the Tribal Transit Program and terms and conditions for the formula and discretionary programs. FTA's outreach with the tribes continued through the fall of 2013, with the delivery of three tribal transit workshops designed to provide hands-on training and technical assistance with the new program structure and applicable FTA requirements.

Bus and Bus Facilities Program

MAP–21 followed the Administration's request to fold the discretionary bus program into a formula program. This capital program provides funding to replace, rehabilitate, and purchase buses and related equipment, and to construct bus-related facilities. MAP–21 authorized $422 million in FY2013 and $428 million in FY2014. Each fiscal year, each State will be allocated $1.25 million and each territory (including the District of Columbia and Puerto Rico) will receive $500,000. The remaining funds will be distributed by formula. Funds are available to designated recipients and States that operate or allocate funding to fixed-route bus operators. Eligible subrecipients include public agencies or private nonprofit organizations engaged in public transportation, including those providing services open to a segment of the general public, as defined by age, disability, or low income. We have heard from our stakeholders, primarily states and recipients in small urbanized areas and rural areas, that the funding under this program is insufficient to meet rural bus acquisitions due to replacement or expansion needs.

Formula Grants for the Enhanced Mobility of Seniors and Individuals With Disabilities

The Enhanced Mobility of Seniors and Individuals with Disabilities program provides formula funding to increase the mobility of seniors and persons with disabilities. MAP–21 merges the former New Freedom program, which provided grants for services that went above and beyond the requirements of the Americans with Disabilities Act (ADA), with this program. Projects selected for funding must be included in a locally developed, coordinated public transit-human services transportation plan; and the competitive selection process, which was required under the former New Freedom program, is now optional.

A portion of program funds may be used for public transportation projects that exceed the requirements of the ADA; public transportation projects that improve access to fixed-route service and decrease reliance by individuals with disabilities on complementary paratransit (a comparable service to public transportation required by the ADA for individuals with disabilities who are unable to use fixed-route transportation systems); or alternatives to public transportation that assist seniors and individuals with disabilities.

Coordinated Transportation

Senior and medical transportation is vitally important to the Nation's growing senior population and citizens suffering debilitating illnesses and chronic diseases. For example, in South Dakota, 14.6 percent of the population is 65 or older and this segment of the population is projected to grow to 23.1 percent by 2030. We need to support seniors who want to continue living in communities they call home. This requires human services policies and programs that work for the traveling public, including seniors, individuals with disabilities, and all those seeking medical care. Moreover, transportation services focused on these populations are often fragmented, underutilized, or difficult to navigate, and can be costly because of inconsistent, duplicative, and often restrictive Federal and State program rules and regulations. And, in some cases, narrowly focused programs leave service gaps and the available transportation services are simply not able to meet certain needs. We are working to determine how best to integrate the full range of mobility needs, which include ADA paratransit, transportation for seniors, and medical transport programs, with public transportation operations and plans. This means focusing on the customer and coordinating the best solutions with public and private operators and volunteer programs in the mix, as well as coordinating with other Federal agencies that fund transportation for these targeted populations.

MAP–21 continues the requirement that, to the maximum extent feasible, FTA should coordinate activities funded under the Enhanced Mobility program with similar transportation activities provided by other Federal agencies.

Significant Rulemakings and New Guidance Activities

MAP–21 changes require FTA to issue a number of rulemakings and guidance documents—a reflection of the law's many new and innovative programs, initiatives, and requirements. FTA has worked diligently to advance several rulemakings, and to issue proposed new guidance, engaging thousands of stakeholders in the process. Our accomplishments in this area in 2013 include the following:

- FTA is currently evaluating comments received on our ANPRM on Safety and Transit Asset Management. This was the first segment of a significant rulemaking related to FTA's new safety authority under MAP–21, and the input we received will greatly inform our proposed regulations in the coming year.
- FTA issued proposed guidance to assist grantees in implementing the Enhanced Mobility for Seniors and Individuals with Disabilities Program—a new program under MAP–21 that consolidates the New Freedom Program and the Elderly Individuals and Individuals with Disabilities Program.
- FTA issued proposed guidance to assist recipients in their implementation of the Urbanized Area Formula Program, which changed under MAP–21. Final guidance is available for public inspection today and will be published in the Federal Register tomorrow.
- FTA issued proposed guidance to assist recipients in their implementation of the Rural Area Formula Program. The purpose of the proposed guidance is to provide potential recipients with updated instructions on program administration and the grant application process brought about by MAP–21 changes.
- FTA issued proposed guidance on the application of a new provision regarding corridor preservation for future transit projects. MAP–21 amended a previously existing provision such that FTA can now, under certain conditions, assist in the acquisition of right-of-way for corridor preservation before the environmental review process for any transit project that eventually will use that right-of-way and permit corridor preservation with local funds for a transit project that could later receive FTA financial assistance.

FTA also cosponsored several important interagency proposals under MAP–21.

- FTA and the Federal Highway Administration (FHWA) jointly published a final rule that amends their joint procedures that implement the National Environmental Policy Act (NEPA) by creating a new categorical exclusion (CE) for emergency actions as required by Section 1315 of MAP–21. The final rule modifies the existing lists of FHWA and FTA CEs and expands the existing CE for emergencies.
- FTA and FHWA jointly published an important final rule streamlining the environmental review process under NEPA that a proposed transit project seeking Federal funds must undergo. The rule established ten new CEs defined specifi-

cally for transit projects. CEs significantly expedite FTA's environmental review of projects that have been shown to have little environmental impact while preserving critical community input on how planned transit projects affect the local environment. These NEPA revisions, like the New Starts changes, are closely aligned with the MAP–21 policy goals of accelerating the development and delivery of capital transportation projects.

- FTA and FHWA jointly issued another final rule, adding new categorical exclusions for projects within an existing operational right-of-way and projects receiving limited Federal funding for purposes of improving project delivery. The final rule was published on January 13, 2014.
- FTA and FHWA jointly issued proposed guidance on implementation of MAP–21 provisions that requires public transportation providers to be represented as part of each metropolitan planning organization (MPO) by the end of FY2014.
- FHWA and FTA jointly issued interim guidance on implementing Section 1319 of the MAP–21, which provides for the preparation of a Final Environmental Impact Statement (FEIS) by attaching errata sheets to the Draft Environmental Impact Statement (DEIS) if certain conditions are met, and requires, to the maximum extent practicable, that the lead agency will develop a single document that combines the FEIS and Record of Decision (ROD), except under certain circumstances.
- FTA, FHWA, and the Federal Railroad Administration (FRA) issued proposed regulations for the Surface Transportation Project Delivery Program, which MAP–21 converted from a pilot to a permanent program. MAP–21 changes also helped to accelerate project delivery by allowing the Secretary to assign, and for States to assume, the Federal responsibilities for the review of highway, transit, rail and multimodal projects under NEPA and responsibilities for environmental review, consultation or other action required under any Federal environmental law pertaining to the review.

Conclusion

MAP–21 offers an important opportunity to recalibrate the way our Government evaluates and invests in our federally funded public transportation infrastructure. From a transit perspective, the law's major provisions enable FTA to focus limited resources on strategic investments and policies that will result in a better and safer riding experience for millions of Americans, while repairing and modernizing transit systems for generations to come. I look forward to working with this Committee toward reauthorization.

Mr. Chairman, this concludes my testimony and I am happy to answer any questions you may have.

PREPARED STATEMENT OF DAVID WISE

DIRECTOR, PHYSICAL INFRASTRUCTURE ISSUES, GOVERNMENT ACCOUNTABILITY OFFICE

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United States Government Accountability Office

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Testimony

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PUBLIC TRANSIT

Challenges Funding, Investing in Systems, and Coordinating Services

Statement of Dave Wise, Director, Physical Infrastructure Issues

GAO-14-278T

GAO Highlights

Highlights of GAO-14-278T, a testimony before the Committee on Banking, Housing, and Urban Affairs, U.S. Senate

January 16, 2014

PUBLIC TRANSIT

Challenges Funding, Investing in Systems, and Coordinating Services

Why GAO Did This Study

Millions of passengers use transit services on a daily basis, and many transit agencies that provide these services receive federal funding. To meet the needs of these passengers in a challenging economy, transit agencies must use federal and other resources wisely, while ensuring quality service.

The July 2012 surface transportation reauthorization act—MAP-21—has addressed a number of transit issues by strengthening federal authority to oversee transit safety and emphasizing the restoration and replacement of aging infrastructure, among other things. While it is too early to assess all of the impacts of MAP-21, the work GAO has done can help inform the next surface transportation reauthorization act.

This testimony covers GAO's recent work on: (1) funding transit; (2) improving capital decision making; and (3) coordinating services for transit-disadvantaged populations.

To address these objectives, GAO drew from its recent reports issued from March 2011 through November 2013. GAO has also analyzed MAP-21, recent rulemaking, and other reports.

What GAO Recommends

GAO made recommendations on these issues in previous reports. The Department of Transportation agreed to consider these recommendations and is in various stages of implementing them.

View GAO-14-278T. For more information, contact Dave Wise at (202) 512-2834 or wised@gao.gov.

What GAO Found

The Moving Ahead for Progress in the 21st Century Act (MAP-21) authorized $10.6 and $10.7 billion for fiscal years 2013 and 2014, respectively, for public transit, but did not address long-term funding. Federal funds available for FTA's transit programs come from the general fund of the U.S. Treasury and the Mass Transit Account of the Highway Trust Fund. The Highway Trust Fund supports surface transportation programs, including highways and transit, and is funded through motor fuel and other highway use taxes; however, revenues have eroded over time because federal fuel tax rate stagnation, fuel efficiency improvements, and the use of alternative fuel vehicles. In May 2013, the Congressional Budget Office estimated that to maintain current spending levels plus inflation between 2015 and 2022, the Fund will require over $132 billion more than it is expected to take in over that period. GAO reported that while Congress transferred over $50 billion in general revenues to the Fund since fiscal year 2008, this approach may not be sustainable given competing demands for funding. For these reasons funding surface transportation remains on GAO's High-Risk List.

To address these funding challenges, sound capital-investment decisions can help transit agencies use their funds more efficiently. GAO's work on transit asset management and bus rapid transit has illustrated these benefits.

Transit asset management: According to the Federal Transit Administration (FTA), it would cost roughly $78 billion (in 2009 dollars) to rehabilitate or replace the nation's aging transit assets—such as buses, rail cars, and escalators. GAO's 2013 report on asset management recognized that many of the nearly 700 public transit agencies struggle to maintain their bus and rail assets in a state of good repair. Sound management practices can help agencies prioritize investments to help optimize limited funding. However, of the nine transit agencies GAO visited, only two measured the effects of capital investments on asset condition and none measured the effects on future ridership. Thus, GAO recommended additional research to measure the effects of capital investments; FTA concurs in part with this recommendation. FTA agency officials recognize the importance of additional research; however, they are hesitant to commit additional resources given their current budget situation.

Bus rapid transit (BRT): In addition to maintaining assets, transit agencies often need to build or expand systems to meet demand. Transit agencies can apply for federal capital-investment funding for new projects through New and Small Starts and Core Capacity Improvement grants. GAO's 2012 report found that many agencies had taken advantage of New and Small Starts funding to develop BRT projects, which generally require less capital investment compared to rail.

GAO's recent work also shows benefits from coordinating transit services for the transportation-disadvantaged—those who cannot provide their own transportation or face challenges accessing public transportation. GAO's 2012 report pointed out that coordination can be challenging, as federal programs provide funding for a variety of services. GAO also concluded that insufficient federal leadership and guidance on coordinating services for the disadvantaged may hinder coordination among state and local providers. The Coordinating Council—a group of federal agencies providing these services—has completed a strategic plan to strengthen interagency coordination, as GAO recommended.

Chairman Johnson, Ranking Member Crapo, and Members of the Committee:

I am pleased to be here today to discuss our recent work on transit issues. It is my hope that we can help inform the committee as it prepares to develop the next surface transportation reauthorization act. Millions of passengers use transit services on a daily basis in the United States, and many of the local transit agencies that provide these services receive federal funding. To meet the needs of these passengers in a challenging economy, transit agencies must use federal and other resources wisely, while ensuring safety and quality. The most recent surface transportation reauthorization act, Moving Ahead for Progress in the 21st Century Act (MAP-21),[1] enacted on July 6, 2012, authorized funding for federal highway and public transportation programs through September 30, 2014. MAP-21 did not address concerns about funding for surface transportation programs over the longer term, but it did address a number of other areas of concern by modifying certain transit programs, at the same time strengthening federal authority to oversee transit safety,[2] emphasizing the restoration and replacement of aging infrastructure, consolidating some grants, and streamlining project development, evaluation, and delivery. The Federal Transit Administration (FTA)[3] is developing guidance for implementing many of these changes. I will highlight today our recent work that has implications for current and future

[1]Pub. L. No. 112-141, 126 Stat. 405 (July 6, 2012).

[2]Rail transit generally has been one of the safest forms of public transportation. However, notable accidents are cause for concern. GAO's 2006 report found that officials from the majority of the state oversight and transit agencies stated that the State Safety Oversight program enhances rail transit safety, but that FTA faced several challenges in administering the program. For example, state oversight agencies received little or no funding from FTA and had limited funding for staff. GAO, *Rail Transit: Additional Federal Leadership Would Enhance FTA's State Safety Oversight Program*, GAO-06-821 (Washington, D.C.: July 26, 2006). GAO's 2011 report also found challenges including the low level of safety in some transit agencies and the difficulty hiring and training qualified staff. GAO, *Rail Transit: FTA Programs Are Helping Address Transit Agencies' Safety Challenges, but Improved Performance Goals and Measures Could Better Focus Efforts*, GAO-11-199 (Washington, D.C.: Jan. 31, 2011). MAP-21 provided FTA with new safety authority, including authority to establish new safety requirements for all recipients, as well as conduct investigations, audits, and examinations. Pub. L. No. 112-141, § 20021, 126 Stat. 405, 709-717.

[3]The Federal Transit Administration is the agency within the Department of Transportation responsible for providing financial and technical assistance to local public transit systems.

transit programs and describe how MAP-21 has affected these areas to date.

My statement today describes our work on three main challenges: (1) funding transit, (2) improving capital-investment decision making on maintaining and expanding transit systems, and (3) coordinating transit services for transit-disadvantaged populations among various federal and state or local agencies. To the extent that these challenges can be addressed as MAP-21 is implemented, Congress, along with transit and federal agencies, will better be able to leverage increasingly limited federal dollars.

For this statement, we drew primarily from our reports—including those on funding transit, managing assets, and coordinating services for the transportation-disadvantaged—issued from June March 2011 through November 2013.[4] We also analyzed MAP-21, recent rulemaking, and other reports. The reports cited in this statement contain more detailed explanations of the methods used to conduct our work. The work on which this statement is based was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Funding for transit projects comes from public funds allocated by federal, state, and local governments and system-generated revenues earned by transit agencies from providing transit services. The Department of Transportation reported: (1) that in 2008, federal funds were nearly 40 percent of total transit agency capital expenditures; (2) that state funds provided approximately 12 percent; and (3) that local funds provided the

[4]See list of these reports in Related GAO Products section.

remaining 48 percent of total transit agency capital expenditures.[5] Our November 2012 report found similar funding trends. Specifically, local funding exceeded total federal funding for the 25 projects approved for federal New Starts grants—part of FTA's Capital Investment Grant Program—from October 2004 through June 2012.[6] Federal funding is an important part of this picture, and according to FTA, MAP-21 authorized federal funding for public transit—$10.6 billion for fiscal year 2013 and $10.7 billion for fiscal year 2014. However, while state and localities face their own funding challenges, MAP-21 did not address long-term transportation federal funding challenges.

Federal funds available for the FTA's transit programs come from two sources: (1) the general fund of the U.S. treasury and (2) the Mass Transit Account of the Highway Trust Fund. Both of these sources of federal funding face difficulties. Currently, congressional budget discussions raise issues about general fund federal spending. This affects transit programs, such as the Capital Investment Grant Program, which are funded through annual appropriations from the general fund.

[5]U.S. Department of Transportation, *2010 Status of the Nation's Highways, Bridges, and Transit: Conditions & Performance,* Washington, D.C. In 2008, total public transit-agency expenditures for capital investment were $16.1 billion and accounted for 41.5 percent of total available funds. Federal funds were $6.4 billion in 2008, 39.8 percent of total transit agency capital expenditures. State funds provided an additional 12.4 percent, and local funds provided the remaining 47.8 percent of total transit agency capital expenditures. Of total 2008 transit capital expenditures, 76.4 percent ($12.3 billion) was invested in rail modes of transportation, compared with 23.6 percent ($3.8 billion) invested in nonrail modes. This investment distribution has been consistent over the last decade.

[6]The Capital Investment Grant Program is the primary mechanism through which FTA provides capital grants to project sponsors like transit agencies. The New Starts and Small Starts programs provide funds to transit project sponsors to build new or expanded fixed-guideway transit systems. Small Starts also includes projects known as Very Small Starts projects. These three categories—New, Small, and Very Small projects—vary by total project cost and amount of the Capital Investment Grant Program contribution to the cost. For New Starts, total estimated project costs exceed $250 million; for Small Starts, they are less than $250 million, and for Very Small Starts, they are less than $50 million. For New Starts, the federal contribution is at least $75 million, for Small Starts it is less than $75 million. For further information on sources of funding for Capital Investment Grants, under SAFETEA-LU, see GAO, *Public Transit: Funding for New Starts and Small Starts Projects, October 2004 through June 2012*. GAO-13-40 (Washington, D.C.: November 14, 2012). MAP-21 made some changes this program.

In addition, the Highway Trust Fund authorizes funds for transit programs primarily through statutory formulas,[7] and there are concerns over the fund's decreasing revenue. The primary mechanism for funding federal highway and transit for more than 50 years is the Highway Trust Fund, which is funded through motor fuel and other highway use taxes. These taxes were established to make the federal-aid highway program self-financing—that is, paid for by the highway users who directly benefit from the program. For many years, user fees in the form of federal fuel taxes and taxes on commercial trucks provided sufficient revenues to the Highway Trust Fund; however, revenues into the fund have eroded over time, in part because federal fuel tax rates have not increased since 1993 and in part because of improvements in vehicle fuel efficiency. In May 2013, the Congressional Budget Office estimated that to maintain current spending levels plus inflation between 2015 and 2022, the Highway Trust Fund will require over $132 billion more than it is expected to take in over that period. About $35 billion of that deficit would be in the transit account. To maintain current spending levels and cover revenue shortfalls, Congress has transferred more than $50 billion in general revenues to the Highway Trust Fund since fiscal year 2008. This approach has effectively broken the link between taxes paid and benefits received by users and may not be sustainable given competing demands and the federal government's growing fiscal challenge. As we have previously reported, this trend will continue in the years ahead as more fuel efficient and alternative fuel vehicles take to the roads. We have previously concluded that a sustainable solution to funding surface transportation is based on balancing revenues to and spending from the Highway Trust Fund. Ultimately, major changes in transportation revenues, spending, or both will be needed to bring the two into balance. For this and other reasons, and because MAP-21 did not address these issues, funding surface transportation remains on GAO's High-Risk List.[8]

[7] Formula funds are apportioned to grant recipients based on distributions prescribed by federal statute. GAO, *Surface Transportation: Competitive Grant Programs Could Benefit from Increased Performance Focus and Better Documentation of Key Decisions*, GAO-11-234 (Washington, D.C.: March 30, 2011).

[8] GAO, *High-Risk Series: An Update*, GAO-13-283 (Washington, D.C.: February 2013).

Our recent work describes how sound capital-investment decisions can help transit agencies use federal and other transit funds more efficiently, and MAP-21's new requirements for transit agencies to use asset management are consistent with our recent findings.

Improved transit asset management is important because of (1) the large backlog of transit assets—such as buses, rail cars, elevators, and escalators—that are already beyond their useful lives; (2) increasing demand for transit services; and (3) financial strains on transit providers due to rising fuel prices, decreased state and local funding, and likely limitations of federal funding going forward. According to FTA, roughly $78 billion (in 2009 dollars)[9] would be necessary to cover the costs of rehabilitating or replacing the nation's transit assets and bring them to a state of good repair. Sound asset-management practices can help agencies prioritize their capital investments to help optimize limited funding.

Our July 2013 report on transit agencies' management of their assets recognized that many of the nearly 700 public transit agencies in the United States struggle to maintain their bus and rail assets in good repair. Further, assets that are not in an acceptable condition and not rehabilitated or replaced could reduce safety, on-time service, and ridership. Our review of selected transit agencies[10] found that while some transit agencies were starting to follow leading practices, including developing asset inventories to obtain accessible, consistent, and comprehensive information, some also faced challenges such as collecting unreliable data. To help prioritize capital investments, transit agencies would benefit from estimating the effects of those investment

[9]Since there has been some inflation since 2009, the cost of $78 billion in 2014 dollars, would be somewhat higher.

[10]We reviewed agencies by conducting site visits and interviews, examining documents, and consulting relevant literature. We selected agencies for review in two ways: 1) using a selection process for transit-agency site visits, and 2) reviewing transit agency case studies included in two key reports we identified through a comprehensive literature review.

decisions. Transit agencies that measure and quantify the effects of their capital-investment decisions are likely to make a stronger case for additional funding from state and local decision-makers. However, of the nine transit agencies we visited, only two measured the effects of capital investments on the condition of certain transit assets and none of the agencies measured the effects on future ridership, in part because they lacked the tools to determine these effects. Figure 1 below shows the extent to which selected transit agencies measured the effect of capital investments.

Figure 1: Extent to which Selected Transit Agencies Measure Effects of Capital Investments on State-of-Good-Repair Backlog, On-time Service, Asset Condition, and Future Ridership

Source: GAO.

Accordingly, we recommended that the Administrator of FTA conduct additional research to help transit agencies measure the effects of capital investments, including future ridership effects. The FTA concurs with this recommendation, in part. FTA agrees that more research to identify the operational impacts of not addressing the state of good repair backlog will support better asset management by transit agencies. However, according to FTA officials, given the agency's current budget situation, it is difficult for it to commit to conduct additional research in the near future. FTA has almost $10 million in research projects on transit asset management underway.

MAP-21 directed FTA to provide transit agencies with tools and guidance they need to help them better prioritize capital investment decisions. MAP-21 also directed FTA to develop asset management requirements for all recipients of federal transit program funds, including a transit asset management plan, which must include at a minimum, capital asset inventories, condition assessments, and investment priorities.[11] Since the enactment of MAP-21, FTA has been developing guidance to help transit agencies implement leading practices in transit asset management and a decision support tool to prioritize investments. FTA also issued an advance notice of proposed rulemaking (ANPRM) in October 2013 and requested that comments be submitted to them by January 2, 2014.[12] The ANPRM states that FTA is seeking to ensure public transportation systems are in a state of good repair and transit agencies provide increased transparency into their budgetary decision-making process. FTA is seeking public comment on, among other things, (1) proposals it is considering and (2) questions regarding the following:

- the requirements of a National Transit Asset Management System, including four options for defining and measuring state of good repair, and
- the relationship between safety, transit asset management, and state of good repair.

As FTA completes its analysis of these comments and further develops a National Transit Asset Management System, transit agencies may be better equipped to implement current leading practices in transit asset management and comply with future transit asset management requirements envisioned by MAP-21.

In addition to maintaining transit agencies' existing assets in a state of good repair, some transit agencies also face a need to build and expand their systems to meet demand. To meet these needs in a financially constrained environment, transit agencies can apply for capital funding available from the federal government through the Capital Investment

[11] Pub. L. No. 112-141, § 20019, 126. Stat. 405, 707.

[12] 78 Fed. Reg. 61251 (Oct. 3, 2013).

Grant Program, which includes New and Small Starts grants.[13] In many cases, transit agencies have taken advantage of this federal funding to develop bus rapid transit (BRT) projects, which often require less capital investment than other transit modes. For example, New York implemented a BRT project for the M15 line. This BRT line provides critical transportation service in Manhattan for over 55,000 riders a day, connecting many neighborhoods that are a long walk from the nearest subway station. Thus transit agencies are able to meet transit demand with BRT projects with a lower initial capital investment than other modes of transit, like heavy rail. Specifically, we found in our 2012 report that median costs for the 30 BRT and 25 rail transit projects we examined from fiscal year 2005 through February 2012 were about $36.1 million and $575.7 million, respectively.

BRT characteristics vary from project to project but generally include improvements to infrastructure, technology, and passenger amenities that attempt to replicate rail transit. We found that starting with the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)[14] in 2005, opportunities for BRT expanded and transit agencies took advantage of them. SAFETEA-LU revised eligibility for major capital investment projects to include corridor-based bus capital

[13]The Capital Investment Grant Program is the primary mechanism through which FTA provides capital grants to project sponsors like transit agencies. The New Starts and Small Starts programs provide funds to transit project sponsors to build new or expanded fixed-guideway transit systems. Small Starts also includes certain corridor-based bus rapid transit projects and what are known as Very Small Starts projects. MAP-21 added a new category to this program, "core-capacity improvement projects." New, Small, and Very Small Starts projects—vary by total project cost and amount of the Capital Investment Grant Program contribution to the cost. For New Starts, total estimated project costs exceed $250 million; for Small Starts, they are less than $250 million, and for Very Small Starts they are less than $50 million. For New Starts the federal contribution is at least $75 million, for Small Starts it is less than $75 million. A "core capacity project" is a substantial corridor-based capital investment in an existing fixed-guideway system that increases the capacity of a corridor by not less than 10 percent. 49 U.S.C. § 5309.

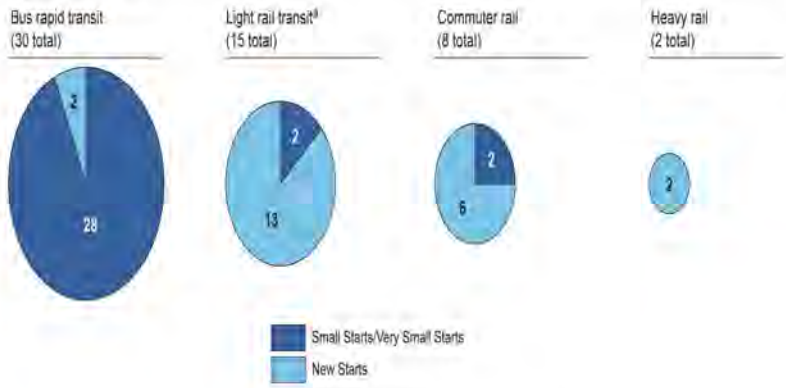
[14]Pub. L. No. 109-59, 119 Stat. 1144 (Aug. 10, 2005).

projects.[15] According to all of the five BRT project sponsors we spoke with during our work, even at a lower capital cost, BRT could provide rail-like benefits. For example, Cleveland RTA officials told us the Healthline BRT project cost roughly one-third ($200 million) of what a comparable light-rail project would have cost.[16] Similarly, Eugene, Oregon, Lane Transit District (LTD) officials told us that the agency pursued BRT when it became apparent that light rail was unaffordable and that an LTD light rail project would not be competitive in the New Starts federal grant process. In terms of benefits, these projects—and most other BRT project we examined—increased ridership and improved travel times over the previous bus service. As a result of the lower initial capital costs for BRT along with the benefits of improved service, transit agencies took advantage of federal New and Small Starts dollars to invest in a relatively large number of BRT projects, as compared to other modes of transit. (See fig. 2).

[15]Under SAFETEA-LU, a fixed-guideway capital project included a corridor-based bus capital project if—"(A) a substantial portion of the project operates in a separate right-of-way dedicated for public transit use during peak hour operations; or (B) the project represents a substantial investment in a defined corridor as demonstrated by features such as park-and-ride lots, transit stations, bus arrival and departure signage, intelligent transportation systems technology, traffic signal priority, off-board collection, advanced bus technology, and other features that support the long-term corridor investment." Pub. L. No. 109-59, § 3011, 119 Stat. 1144, 1579.

[16]In addition, Cleveland RTA told us the Healthline BRT reduced the overall operating budget and the average costs per rider decreased.

Figure 2: Total Projects in New Starts, Small Starts, and Very Small Starts with Grant Agreements by Mode, Fiscal Year 2005 through February 2012



Source: GAO analysis of FTA documents.

Note: Exempt projects were excluded from our analysis.

[a]One streetcar project, the Portland Streetcar Loop, is included in this analysis as a light rail project.

In addition, we found that although many factors contribute to economic development, most local officials in the five case study locations we visited believed that BRT projects were contributing to localized economic development. For instance, officials in Cleveland told us that an estimated $4 to $5 billion had been invested near the Healthline BRT project—associated with major hospitals and universities in the corridor. While most local officials believed that rail transit had a greater economic development potential than BRT, they agreed that certain factors can enhance BRT's ability to contribute to economic development, including physical BRT features that relay a sense of permanence to developers; key employment and activity centers located along the corridor; and local policies and incentives that encourage transit-oriented development. Our analysis of land value changes near BRT lines at our five case study locations lends support to these themes.

MAP-21 included a few changes that affected BRT. For example, MAP-21 defined BRT more narrowly and specifically than SAFETEA-LU. Specifically, MAP-21 required that BRT projects include features that emulate the services provided by rail, including defined stations rather than bus stops. This is consistent with our work, as we found that including rail-like features appears to lead to increased economic development along BRT corridors. In addition, MAP-21 made a distinction between BRT projects that are eligible for New Starts versus Small Starts funding.[17]

Effective federal coordination can help maximize limited resources, while still providing essential services—especially to transportation-disadvantaged populations, including those who cannot provide their own transportation or may face challenges in accessing public transportation due to age, disability, or income constraints. We have previously reported that transportation-disadvantaged populations often benefit from greater and higher quality services when transportation providers coordinate their operations. Additionally, as we reported in our findings on duplicative efforts and programs, improved coordination of these programs and transportation services has the potential to improve the quality and cost-effectiveness of these services, while also reducing duplication, overlap, and fragmentation of services.[18]

However, effective coordination can be challenging, as federal programs provide funding under a variety of services, including education, employment, and medical and other human services. Our 2012 report on transportation-disadvantaged populations found that 80 federal programs in eight different agencies fund a variety of transportation services. While some federally funded programs are transportation focused, transportation was not the primary mission for the vast majority of the programs we identified. For example, the Department of Health and Human Services' Medicaid program reimburses states that provide Medicaid beneficiaries with bus passes, among other transportation options, to access eligible medical services. Total federal spending on services for transportation-disadvantaged populations remains unknown

[17]Under MAP-21, a corridor-based bus rapid transit project, in which the majority of the project does not operate in a separated right-of-way dedicated for public transportation use during peak periods, is eligible for Small Starts funding; New Starts eligibility is limited to those fixed guideway bus rapid transit projects in which the majority of the project operates in a separated right-of-way dedicated for public transportation use during peak periods. 49 U.S.C. § 5309(a).

[18]GAO, *Government Operations: Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue*, GAO-11-318SP (Washington, D.C.: March 1, 2011) and *Government Operations: List of Selected Federal Programs That Have Similar or Overlapping Objectives, Provide Similar Services, or Are Fragmented Across Government Missions*, GAO-11-474R (Washington, D.C.: Mar. 18, 2011).

because federal departments did not separately track spending for roughly two-thirds of the programs we identified.

Our June 2012 report also concluded that insufficient federal leadership and lack of guidance for furthering collaborative efforts might hinder the coordination of transportation services among state and local providers. Officials in each of the five states we selected for interviews said that the federal government could provide state and local entities with improved guidance on transportation coordination—especially related to instructions on how to share costs across programs (i.e., determining what portion of a trip should be paid by whom). To promote and enhance federal, state, and local coordination efforts, we recommended in 2012 that the Secretary of Transportation, as the chair of the Interagency Coordinating Council on Access and Mobility (Coordinating Council), along with the Coordinating Council's member agencies, should meet and complete and publish a strategic plan outlining agency roles and responsibilities and articulate a strategy to help strengthen interagency collaboration and communication.[19] Also, the Coordinating Council should report on the progress of its prior recommendations and develop a plan to address any outstanding recommendations. DOT agreed to consider our recommendation and the Coordinating Council's member agencies responded by issuing a strategic plan for 2011–2013, which established agency roles and responsibilities and identified a shared strategy to reinforce cooperation, and officials have indicated they will continue to take steps to implement our recommendations.

FTA has made some progress in enhancing coordination for transportation-disadvantaged populations. According to FTA officials, as a result of MAP-21, the agency has been updating program guidance and has issued draft program circulars for its Urbanized Area Formula Program, Enhanced Mobility for Seniors and Individuals with Disabilities Program, and the Rural Areas Formula Program, all of which discuss coordinated transit programs, among other issues. In addition, FTA

[19]The Coordinating Council is a group of federal agencies that, among other things, is charged with promoting interagency cooperation and establishing appropriate mechanisms to minimize duplication and overlap of federal programs and services so that transportation-disadvantaged persons have access to improved transportation services. Chaired by the Secretary of Transportation, the Council is composed of the Secretaries of Health and Human Services, Education, Labor, Veterans Affairs, Agriculture, Housing and Urban Development, Interior and Justice as well as the Commissioner of the Social Security Administration and the Chairperson of the National Council on Disability.

continues to support federal programs that play an important role in helping transportation-disadvantaged populations by providing funds to state and local grantees that, in turn, offer services either directly or through private or public transportation providers. Further, some FTA programs require or encourage their grantees to coordinate transportation services. For example, FTA's Enhanced Mobility of Seniors and Individuals with Disabilities program—which provides formula funding to states to serve the special needs of transit-dependent populations beyond traditional public-transportation service—requires grantees to coordinate their transportation services and establish locally developed, coordinated public transit-human services transportation plans.[20] We continue to examine these funding, service delivery, and coordination issues.[21]

Chairman Johnson, Ranking Member Crapo, and Members of the Committee, this completes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

If you or your staff have any questions about this testimony, please contact me at (202) 512-2834 or wised@gao.gov. Contact points for our offices of Congressional Relations and Public Affairs may be found on the last page of this statement. In addition, to the contact named above, Cathy Colwell, Geoffrey Hamilton, Hannah Laufe, Sara Ann Moessbauer, Tina Paek, Stephanie Purcell, and Amy Rosewarne made key contributions to this statement.

[20]MAP-21 consolidated DOT's Transportation Services for Individuals with Disabilities and New Freedom programs into the Enhanced Mobility of Seniors and Individuals with Disabilities program.

[21]See GAO, *Transportation-Disadvantaged Populations: Coordination Efforts are Underway, but Challenges Continue*, GAO-14-154T (Washington, D.C.: Nov. 6, 2013).

Related GAO Products

Transportation-Disadvantaged Populations: Coordination Efforts are Underway, but Challenges Continue. GAO-14-154T. Washington, D.C.: November 6, 2013.

Transit Asset Management: Additional Research on Capital Investment Effects Could Help Transit Agencies Optimize Funding. Washington, D.C.: July 11, 2013.

High-Risk Series: An Update. GAO-13-283. Washington, D.C.: February 2013.

ADA Paratransit Services: Demand Has Increased, but Little is Known about Compliance. GAO-13-17. Washington, D.C.: November 15, 2012.

Public Transit: Funding for New Starts and Small Starts Projects, October 2004 through June 2012. GAO-13-40. Washington, D.C.: November 14, 2012.

Bus Rapid Transit: Projects Improve Transit Service and Can Contribute to Economic Development. GAO-12-811. Washington, D.C.: July 25, 2012.

Transportation-Disadvantaged Populations: Federal Coordination Efforts Could Be Further Strengthened. GAO-12-647. Washington, D.C.: June 20, 2012.

Government Operations: Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue. GAO-11-318SP. Washington, D.C.: March 1, 2011.

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RESPONSES TO WRITTEN QUESTIONS OF SENATOR CRAPO FROM PETER M. ROGOFF

Q.1. You both indicated in your statements that the maintenance and repair backlog exceeds roughly $78 billion nationwide to rehabilitate or replace the Nation's aging assets.

What part of that $78 billion is for rehabilitation and what part constitutes replacement? Also, what is the time period proposed for these fixes?

A.1. Recent data reported to Congress in the Department of Transportation's 2013 Status of the Nation's Highways, Bridges, and Transit: Conditions and Performance Report, identifies an $85.9 billion state-of-good-repair transit backlog. This number is based on more recent information and replaces the $78 billion backlog estimate discussed at the hearing.

FTA research indicates that deferred rehabilitation represents approximately $15.5 billion (18 percent) and deferred replacement represents approximately $70.4 billion (82 percent) of the estimated $85.9 billion backlog. This estimate is for capital reinvestment needs only and does not include routine maintenance costs.

FTA assumes that all deferred capital needs can be addressed over a 20-year time period. The 20-year period recognizes that reducing an $85.9 billion backlog requires a long-term approach; the capacity of any industry to replace and/or rehabilitate $85.9 billion in assets is inherently limited and requires a long lead time—even if all of the needed investment were immediately available.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR MENENDEZ FROM PETER M. ROGOFF

Q.1. In 2009, FTA issued a report showing that the seven largest rail transit operators in the U.S.—which includes New Jersey Transit—had a state-of-good-repair backlog of $50 billion. MAP–21 included reworked state-of-good-repair program, as well as new asset management requirements. It is important that these policies are implemented in a way that encourages tangible improvements in the condition of our transit system.

How will FTA ensure that these changes result in more than just a stack of new paperwork from transit agencies? How will you ensure these policies lead to real, measurable improvements in the safety and reliability of transit service?

A.1. FTA appreciates the critical importance of tangible improvement in the condition and safety of transit assets nationwide. Toward that end, FTA is implementing key MAP–21 provisions that, for the first time, will require annual measures certified by each transit agency chief executive regarding the condition of transit assets and the overall safety performance of the service provided with those assets. FTA will monitor the transit industry's overall performance and report annually to Congress.

Specifically to address state-of-good-repair issues, FTA requested comments on implementation of the National Transit Asset Management System, which would address the 5 pillars specified in MAP–21. Among these is a definition of state of good repair to be established by FTA, a requirement for our grantees to develop transit asset management plans, and new state-of-good-repair performance measures to be established by FTA. These performance measures, which FTA will be developing based on the feedback and comments from our stakeholders in the industry, are designed to ensure that all of FTA's efforts towards state of good repair remain focused on real outcomes.

The National Public Transportation Safety Plan specified in MAP–21 requires FTA to address linkages between state of good repair, safety performance, and safety standards. To oversee these critical linkages, FTA has adopted the Safety Management Systems (SMS) approach used by aviation, maritime, and commercial trucking. As discussed in the National Public Transportation Safety Program and Transit Asset Management Advance Notice of Proposed Rulemaking, FTA requested comment on establishing a framework that requires accountable executives to establish a process that identifies the agency safety risks, and either accepts those risks or implements controls to mitigate them. SMS encourages data-driven and evidence-based decisions regarding the allocation of resources for safety, including those needed to ensure the safe condition of aging assets. Using this approach, FTA anticipates significant gains in both the operational performance and state of repair of public transportation facilities.

Finally, we expect to implement all of these new requirements by building on existing policies and procedures where practicable so as to minimize the burden on the transit industry while encouraging a cultural change in the way transit assets are managed.

Q.2. MAP–21 provided new oversight and enforcement authority for FTA to ensure the safety of public transportation riders, similar to the oversight that already exists for the aviation, rail, and trucking industries. While this authority is a significant increase in the role of the Federal Government in transit safety, MAP–21 also retained the roles of the State Safety Oversight Agencies (SSOs), which in the past have had sharply different levels of authority and effectiveness. Your testimony notes that FTA has been meeting with the SSOs in recent months.

What are FTA's takeaways from these meetings? Will the grants and authority provided by MAP–21 be enough to ensure that all of the SSOs are strong and effective safety regulators?

A.2. FTA believes that the grants and authority provided by MAP–21 will result in a robust State Safety Oversight (SSO) program nationwide. FTA is working closely with the States to ensure a committed implementation of MAP–21 SSO program elements.

Establishing an effective SSO program requires interface at multiple levels of State Government. Therefore, FTA has adopted a three-pronged communication strategy to manage the transition to this new MAP–21 program, which includes the Governors of the States (ultimately accountable for the certification of their State's programs), the highest-ranking transportation official in each State (charged with execution of MAP–21 requirements), and the existing SSO agency staff (day-to-day implementation of SSO program activities). Across the board, the SSO grant program and new MAP–21 requirements have raised the profile of the SSO program and heightened the awareness of senior leadership regarding the State's responsibility for this function.

FTA is working with each SSO to address implementation and/ or capacity issues on a case-by-case basis. FTA is also requiring and approving a work plan for each State to track the specific action items and milestone schedule in place to guide the State's implementation of the new MAP–21 program requirements. FTA is also working on a Notice of Proposed Rulemaking for the SSO rule, which will provide additional guidance for States.

Q.3. MAP–21 created a series of performance measures to ensure that recipients of Federal funds are investing in projects that help us achieve our policy objectives. Some of these performance measures will be largely focused on highways, such as the congestion and performance of the Interstate System and National Highway System. But these will also have an impact on transit service and what priority States and communities place on developing their transit infrastructure.

Is FTA working with the Federal Highway Administration (FHWA) on developing performance measures? How can DOT ensure that these measures fully capture the contributions of transit towards having a functional roadway network?

A.3. As part of the new performance management framework, MAP–21 requires FHWA to establish performance measures to assess highway safety, bridge and pavement conditions, the performance of the interstate system and the National Highway System, freight movement of the interstate system, traffic congestion and on-road mobile source emissions. FTA is required to establish performance measures for transit safety and transit state of good repair. The FTA measures, and the locally set targets for these measures, must be considered side-by-side with the measures established by FHWA throughout Metropolitan and Statewide Planning processes.

While the measures being developed by FHWA naturally originate with a focus on the highway system, FHWA and FTA are working together to develop outcome-based measures that will recognize the impacts of multimodal solutions to problems like highway congestion, mobile source emissions and the performance of the interstate and national highway systems. FTA is working closely with FHWA in developing the performance measures, soliciting public comment on the performance management framework, and on drafting the performance measures rulemakings. The U.S. Department of Transportation plans to propose outcome-based measures that will allow local communities to pursue transportation solutions that work best for their area, including those that are multimodal, in achieving the performance targets they set for future performance.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR HEITKAMP FROM PETER M. ROGOFF

Q.1. The Federal Transit Administration recently released an advance notice of proposed rulemaking (ANPRM) regarding transit safety and asset management. The notice posed over 100 questions to transit providers and the public. While I know that FTA has not yet issued proposed rules, when you ask over 100 questions, people wonder if a complex rule could be under development. I support worthwhile efforts to formulate reasonable and effective policies to improve safety and asset management. However, rural transit has a good safety record and our real asset issue is not management but funding to acquire assets or replace old buses and vans.

Can you assure me that the rural perspective will be taken into account in developing these rules and that FTA will not develop rules with big city transit systems in mind and impose them on rural systems with a handful of buses and employees? Can and will the rules be scaled to reflect the differences between big and small transit providers?

A.1. From the very onset of FTA's MAP–21 implementation activities, FTA has been focused on minimizing the regulatory and operational impact on small and rural providers. One of the reasons a joint ANPRM was issued that covered both safety and asset management was to limit the document review burden on providers with limited staff hours to devote to such efforts.

FTA is committed to minimize the burden of these requirements on all transit agencies, but particularly those of small providers. Where possible, FTA has made suggestions in the ANPRM that would ease the burden on rural and small providers, such as using existing processes and procedures as a framework for the new requirements. For example, FTA is aware that most small and rural operators already have detailed revenue vehicle inventories in place as part of their National Transit Database reports, and the asset inventory requirements of the transit asset management plans can incorporate these.

Additionally, FTA included more than a dozen questions in the ANPRM explicitly addressing the unique needs of small and rural operators in implementing these requirements. This was done to ensure that the rural perspective will be taken into account in developing these rules. The concerns of small and rural operators, and the need to minimize the burden of these new requirements on them, will be a primary consideration throughout the development process of these rules.

Q.2. MAP–21 retains much of the prior rural formula prior structure, but new elements were added to the apportionment calculation. A service factor is added, which rewards rural areas with high levels of ridership.

Can you give us an update on the progress of the implementation of the changes to the rural formula? Have the changes made to the program resulted in improved program delivery for rural Americans?

A.2. FTA apportioned the rural program (5311) formula funds based on the new formula in MAP–21 on May 13, 2013, and will be issuing the FY2014 formula apportionments using the new formula in March 2014. In addition to new formula factors, these program funds were apportioned using 2010 Census data (as opposed to 2000 Census data).

Although it is too soon to tell how the changes in the formula are impacting rural programs overall, FTA has done some analysis to isolate the impacts of change in the formula apportionments vs. the impacts of the new Census. The results indicate that the change in the formula resulted in an average increase in rural program funding of 1.9 percent across all States and the change in the Census data resulted in an average increase of .75 percent across all States. This will continue to change annually based on the data reported to the National Transit Database.

On the whole, FTA expects that a vehicle-mile based formula will provide a more-predictable funding stream to States with rural transit service. We also expect that over time, a vehicle-mile based formula will incentivize the expansion of additional transit services that will be able to take advantage of this funding stream.

Q.3. MAP–21 authorized $30 million per year to be for the Tribal Transit Program. Of the $30 million authorized for the Tribal Transit Program each year, $25 million is distributed by formula and $5 million competitively. FTA announced changes to the Tribal Transit Program in accordance with MAP–21; however because it needed to consult with the Tribes about the Tribal Transit Program, FTA did not make the formula funds available in October 2012, as it did with funds for other transit programs.

A notice of funding availability (NOFA) for the discretionary Tribal transportation program was issued May 9, 2013, but an allocation of funds has yet to be announced. What has been the response from the Tribal community with regard to the program? When can we expect these funds to be out the door? Will the delay of these funds impact future discretionary dispersals?

A.3. FTA published illustrative apportionments in October 2012 when it published the partial apportionments (pursuant to the Continuing Resolution) for its other formula programs, primarily so it could engage with Indian Tribes to explain the changes to the program under MAP–21, the impacts of the new formula, and seek comment from Tribes on how it was interpreting the new formula and applying data from both the Census and National Transit Database for the first time under this program. Following this consultation process, FTA apportioned the full-year FY2013 Tribal formula program allocations concurrently with the full-year program funds for other formula programs in May 2013.

Many Tribes have commended FTA for its Tribal outreach efforts throughout FY2013 to understand the program changes and program requirements. FTA conducted three workshops in the fall of 2013, and through these various workshops, FTA provided technical assistance to approximately 30 Tribes. Due to the overwhelmingly positive response from the Tribes, FTA plans to continue these outreach efforts in FY2014.

As in past years, FTA received an overwhelming response to its FY2013 Notice of Funding Availability (NOFA) for the discretionary Tribal Transit program, and the application period closed on July 9, 2013. FTA announced project selections for the FY2013 discretionary Tribal program on March 18, 2014. These discretionary funds complement $25 million allocated by formula to eligible Tribal recipients, made available in the FY2014 Apportionment Notice. Given the availability of our FY2014 formula funds, we anticipate issuing the FY2014 NOFA for the discretionary Tribal funds during spring 2014.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CRAPO FROM DAVID WISE

Q.1. MAP–21 emphasized the need for asset management through, among other things, requirements for asset management activities and providing state-of-good-repair grants. How will this new focus on transit asset management address the national "state-of-good-repair" backlog?

A.1. The focus on transit asset management should help transit agencies prioritize their capital investments and optimize available funding, so they receive the "biggest bang for their buck." In addition, asset management tools can help transit agencies identify the level of capital investment that would be needed to decrease or maintain its existing state-of-good-repair backlog. For example, MARTA (Atlanta) officials told us that a tool—TERM Lite—has helped them assess how much state-of-good-repair backlog is remaining or unaddressed over certain periods of time (for example, a 10-year or 20-year period). With a current state-of-good-repair backlog equaling $3.3 billion, TERM Lite calculated effects on the backlog and determined that investing the budget-constrained amount of $245 million per year would increase their backlog to $6.6 billion after 10 years and $13 billion after 20 years.

In addition, recognizing the backlog can help direct available funding toward reducing that backlog. For example, according to the State of Good Repair Initiative Report to Congress, transit agencies that received Recovery Act funding used roughly $3.9 billion in funds to repair, rehabilitate, and replace existing transit vehicles (mostly buses), stations, maintenance facilities, control systems, track, and structures with deferred investment needs. FTA estimates the $3.9 billion in Recovery Act funding applied to rehabilitate and replace existing transit assets yielded a roughly equal reduction in the existing backlog.

Q.2. You both indicated in your statements that the maintenance and repair backlog exceeds roughly $78 billion nationwide to rehabilitate or replace the Nation's aging assets. What part of that $78 billion is for rehabilitation and what part constitutes replacement? Also, what is the time period proposed for these fixes?

A.2. FTA estimates that roughly $78 billion (in 2009 dollars)[1] would be necessary to cover the costs of rehabilitating or replacing the Nation's transit assets and bring them to a state of good repair. This means that an investment of this amount would be required for the immediate replacement of all of the Nation's transit assets that currently exceed their useful lives and to complete all outstanding station rehabilitations.

We are not aware of any analysis that delineates which part of the $78 billion backlog would be required for replacement versus the rehabilitation of assets. However, according to GAO's analysis of FTA data, in 2009, 55 percent (or $42.7 billion) of the $78 billion backlog was dominated by heavy rail assets that are over age, followed by bus and commuter rail assets. FTA also estimated that $13.5 billion and $12.6 billion would have been required to replace

[1] Since there has been some inflation since 2009, the cost of $78 billion in 2014 dollars, would be somewhat higher.

all motor bus and commuter rail assets that are over age, respectively.

As for proposed time periods to make these fixes, FTA calculated the average annual investment that would be required to simultaneously eliminate the existing backlog while concurrently meeting ongoing normal replacement and rehabilitation needs over a 6-year, 12-year, and 20-year period. For example, FTA estimated the level of annual investment required to bring the Nation's assets to a state of good repair over 6 years to be $27.3 billion including normal replacement needs, of which $12.9 billion annually would address the backlog, and thus $14.4 billion would be needed for normal replacement and rehabilitation.